

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 19TH DAY OF NOVEMBER, 2001

Original Application No.495 of 2001

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Madhu pratap Singh, son of Shri Surendra
Pal singh, R/o Vill.&P.O.Pipari
Raghunathpur(Rudayan) District Badaun

... Applicant

(By Adv: Shri Ajai Rajendra)

Versus

1. The Post Master, Badaun-243601
2. The Sub Divisional Inspector
of Post Offices, Western Sub Division
Badaun-243601
3. Union of India through its
Secretary, department of Posts
New Delhi.

... Respondents

(By Adv: Shri R.C.Joshi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has prayed for a direction to the respondents not to interfere in the working of the applicant as Branch Post Master Pipari Raghunathpur district Badaun. He has also prayed that respondents may be directed to pay full salary to the applicant.

The facts in short, giving rise to this dispute are that Surendra Pal Singh, father of the applicant was serving as Branch Post Master, Pipari Raghunathpur. By order dated 15.9.99 he was asked to work as Branch Post Master, Ekh Khera. Sri Surendra Pal Singh was also authorised to hand over his charge to a substitute of his choice. Acting under the aforesaid direction Surendra Pal Singh handed over charge to the applicant Madhu pratap Singh(his own son) as substitute. The charge was taken over by the applicant on



16.9.1999. The grievance of the applicant is that though he was paid salary for the months of October 1999 to [^]December 1999 @ Rs.2034/- per month which represented full allowances which were being paid to Surendra Pal Singh. However, from January 2000, applicant was paid Rs.1829/- upto January 2001. The learned counsel for the applicant has submitted that thereafter the applicant has not been paid any salary though he [^]was handed over the charge [^]of [^]the post under the orders passed by the respondents. The learned counsel for the applicant has placed before us a note contained in 'Swamy's Book on ED(Conduct&Service) Rules, wherein

"With reference to D.G's letter No.43/15/65-PEN dated 7.6.68 it is provided that unauthorised leave/absence is a period during which, with the approval of the appointing authority' and EDA is permitted not to attend personally to the duties assigned to him, by providing a substitute approved by the appointing authority. During such period, the allowances payable to the EDA will be payable to the substitute."

The learned counsel has submitted that though upto December 1999 applicant was paid all the allowances payable to Surendra Pal Singh but from January 2000 onward it was deducted without any authority.

Shri R.C.Joshi learned counsel appearing for the respondents, on the other hand, submitted that the absence of Surendra Pal Singh was unauthorised. He has placed reliance in paragraph 9 of the counter affidavit filed by Shri K.K.Gaganeja. It is stated in the counter affidavit that Surendra Pal Singh remained absence since 1.6.2000 without leave and did not join the post of EDBPM and unauthorisedly allowed his son the petitioner to work as EDBPM with malafide intention. It has also been said in

paragraph 20 & 21 of the counter affidavit that from october 1999 to December 1999 acquittance roll was prepared in the name of Surendra Pal Singh but applicant himself illegally written his own name on the roll and received the payment. It has also been tried to say in paragraph 19 that substitute is paid only initial of the TRCA allowance and is not granted the pay scale of the post. In paragraph 21 it is not disputed that applicant worked as substitute from January 2000 also and he was paid allowances according to rules but no rule has been referred in this context which could provide otherwise situation of payment to a substitute than provided in the notes contained in EDA(Conduct & Service) Rules with reference to D.G's letter dated 7.6.1968.

Shri R.C.Joshi has also not been able to place before us any rule providing that substitute shall be paid initial TRCA allowance and is not granted the payscale of the post. In paragraph 11 of the CA it is also admitted that Surendra Pal Singh took over charge of EDBPM Pipara Raghunathpur on 28.4.2001 which shows that applicant has worked upto 27.4.2001. In the aforesaid facts and circumstances, in our opinion, the applicant was entitled for the full allowances which were payable to Surendra Pal Singh and deduction was not supported by any rule.

For the reasons stated above, the OA is disposed of finally with the direction to the respondents to pay applicant the difference in payment of allowances for the period he has been paid lesser amount and ~~for~~^{of} the allowances for the period he has not been paid any amount. The amount payable to the applicant under this order shall be paid to him within three months from the date a copy of this order is filed before Respondent no.1 Post Master Badaun.



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However, there will be no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 19.11.2001

Uv/