

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 1464 of 2004

Allahabad this the 25th day of July, 2012

Hon'ble Mr. Sanjeev Kaushik, Member-J
Hon'ble Mr. Shashi Prakash, Member-A

Bhupendra Kumar Mishra, son of Shri Radha Krishna Mishra,
resident of village Tulapur, P.O. Sikandara, district Allahabad.

Applicant

Filed by Advocate: Shri A.K. Bajpai

Vs.

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, New Delhi.
2. Senior Superintendent of Post Offices, Allahabad Division, Allahabad.
3. Up Mandaliya Dakghar Nirikshak, Allahabad North Sub Division, Allahabad.

Respondents

By Advocate: Mr. R.K. Srivastava

ORDER

Delivered by Hon'ble Mr. Sanjeev Kaushik, J.M.

This matter was listed on 24th July, 2012 but nobody appeared on behalf of the applicant. We ordered to list this matter today. Today also none appeared on behalf of the applicant when the case is called for second time. Shri D.K. Tiwari, Counsel holding brief of Shri R.K. Srivastava, Counsel for the respondents is present.

2. By way of instant O.A., the applicant seeks direction from this Tribunal to direct the respondents to appoint the applicant as E.D.D.A. at Sub Post Office Bomapur or at Sub Post Office Karnaipur, District Allahabad whereby the post of E.D.D.A. is lying vacant.

3. Pursuant to the notice, the respondents have filed the Counter Affidavit. Under the heading of preliminary submission, it is submitted by the respondents that the applicant was engaged as a substitute E.D.D.A. Kahali by one Shri Yashwant Lal, E.D.D.A., Kahali Branch Office, as stop gap arrangement for some time, on his own risk and responsibility. It is further averred that the substitute has no lien with the department as he was engaged by the regular incumbent.

4. We have heard the arguments of learned counsel for the respondents and gone through the pleadings on record.

5. The applicant was appointed as a substitute and it is settled law that the substitute has no right to ask for regular appointment. Pursuant to the directions given by the Hon'ble High Court in Writ Petition No. 34500 of 1999, filed by the applicant, decided on 17.08.1999, the respondents decided the representation of the applicant by

passing a speaking order whereby they rejected the representation of the applicant on the ground that his initial appointment was not according to rules. Therefore, the applicant cannot seek the directions for appointment. The order dated 22.11.1999 (annexure-8) reads as under:

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भारतीय डाक विभाग

प्रेषक

उप मण्डलीय निरीक्षक डाकघर
उत्तरी उप मण्डल, इलाहाबाद

सेवा में,

श्री भूपेन्द्र कुमार मिश्र पुत्र श्री राधा कृष्ण मिश्र
ग्राम-तुलापुर पो0 सिकन्दा, इलाहाबाद

कम सं0 ए0 कहली। रिट नं0 34500-99 इलाहाबाद।

दिनांक 22.11.99

विषय:- माननीय उच्च न्यायालय याचिका सं0 34500-99 दिनांक 16.8.99 के आदेशनुसार एनेक्जर-6 दिनांक 18.5.99 के विधि सम्मत निस्तारण का मामला।

सन्दर्भ:- आपका प्रार्थना पत्र दिनांक 24.8.99

महोदय,

सूच्य है कि ई0डी0आर0 कहली शाखा डाकघर के पद पर नियुक्ति हेतु विज्ञापन प्रचारित करने के फलस्वरूप आपका आवेदन पत्र प्राप्त हुआ था एवम् सभी प्राप्त आवेदन पत्रों में प्रथम मेरिट धारक की नियुक्ति उक्त पद पर की गई है, परन्तु आप मेरिट सूची में काफी पीछे थे। अतः नियमानुसार आपकी नियुक्ति नहीं गई है।

नियमानुसार एवजीदार के रूप में, नियमित ई0डी0 कर्मचारी के पर पर सीधे नियुक्ति की प्रक्रिया, विधि सम्मत विरुद्ध है, जो नहीं अपनाई जा सकती है।

शाखा डाक पाल कुम्हौना एवम् बीगापुर का पद रिक्त नहीं है। शाखा डाकपाल कहली का विज्ञापन निकलने पर सक्षम अधिकारी (प्रवर अधीक्षक डाकघर, इलाहाबाद) के पास आवेदन पत्र भेजें और तब उचित अध्यायों के अनुसार नियुक्ति किया जायेगा।

अस्तु आपका प्रार्थना पत्र (एनेक्जर-6) नियमानुसार निरस्त किया जाता है।

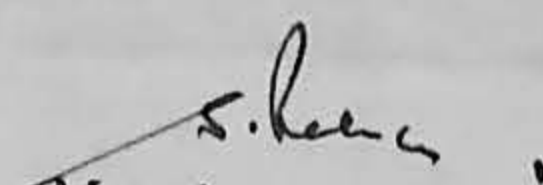
ह0 अस्पष्ट

22.11.99

उप मण्डलीय निरीक्षक डाकघर
उत्तरी उप मण्डल, इलाहाबाद

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6. In view of the above, we find no reason to direct the respondents to appoint the applicant. Accordingly, the O.A. fails and dismissed. No order as to costs.


Member- A


Member-J

/M.M/