

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

(THIS THE 19th DAY OF October, 2010)

Hon'ble Dr.K.B.S. Rajan, Member (J)
Hon'ble Mr. S. N. Shukla, Member (A)

Original Application No.1544 of 2004
(U/S 19, Administrative Tribunal Act, 1985)

Balwant Lal Balmiki son of Late Jeerakhan Lal Balmiki, resident of Village and Post Marhpura, Distt. Kannauj.

..... Applicant

Present for Applicant: *Shri D.P.Singh, Advocate*
 Shri Surendra Kumar, Advocate

Versus

1. Union of India, through Secy. Ministry of Communication, Director Postal Services Kanpur Region, Kanpur.
2. Superintendent of Post Office, Fatehgarh, Division Distt. Farrukhabad.
3. Chief Vigilance Officer Dak Evam Tar Vibhag, Lucknow.
4. Virendra Veer Dwivedi alleged Dak Pal Shakha, Madpura, Distt. Kannauj.

..... Respondents

Present for Respondents : Shri Saurabh Srivastava, Advocate
 Shri R.R.Tripath (R/4), Advocate.

O R D E R

(Delivered by Hon. Dr. K.B.S. Rajan, Member-J)

This case need not dilate us for a long time. The grievance of the applicant is that a post of GDS has been filled up by a person who has been working as a teacher and the same is against the extant rules, as complaint has been received from the School

authorities about the same and hence, the said individual should be removed from his post of GDS.

2. Counsel for the respondents has brought to our notice the extant rule in this regard. Vide 'order dated 22-02-1974 and 17-04-1979, there is a specific instruction as to the appointment of teachers as E.D. agents. The same applies to the case of the Respondent No. 4 and there is absolutely no illegality in the appointment of the said individual.

3. To have a hang of the facts of the case, the post of GDS BPM, Marhpura had fallen vacant due to put off duty of regular incumbent Shri Virendra Veer Dwivedi, Respondent No. 4, w.e.f. 20-12-1994. A requisition was placed to the employment exchange in Feb. 1996 and the applicant, who was one among the aspirants, was selected, he being the most meritorious amongst those who applied. The applicant was appointed w.e.f. June, 1996. His appointment was provisional for the period only till disciplinary proceedings against Shri Virendra Veer Dwivedi the regular GDSBPM Marhpura, is finalized. Proceedings initiated against respondent No. 4 ended in his exoneration and as such, he was allowed to resume duties w.e.f. 31.08.1998. Thus, the applicant was thereafter not ^{appointed &} ~~applied~~. The applicant has now challenged the continuance of Respondent No. 4 on the ground that he cannot hold two posts simultaneously and there has been a complaint in this regard and hence, he should be removed and in his place, he being the most meritorious candidate should be appointed.

4. Order dated 22nd February, 1974 and 17th April, 1979 read as under:-

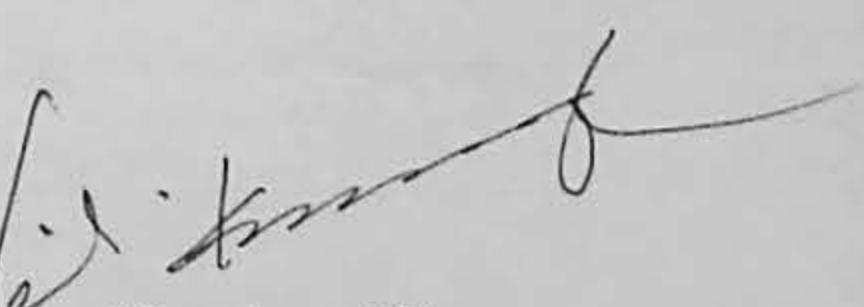
"It has been brought to the notice of this office that ED Agents who are otherwise employed as teacher, etc., are being removed from service indiscriminately. The following instructions are issued in this regard:-

- (i) ED Agents who are working as teachers, etc., should be removed from service only if the general public and the Gram Panchayat, etc., complain in writing that their working simultaneously as Extra-Departmental Agents and teachers is not satisfactory. They should be removed from service only after proper enquiry and after following the procedure for taking disciplinary action against Extra-Departmental Agents.
- (ii) Where the working hours of the Post Offices and that of the Schools clash they should be asked to resign from either of the posts and if they fail to do so they should be removed from service, after following the prescribed procedure."

5. The above makes it clear that there is no illegality in a teacher serving as GDS. In the instant case, the respondent No. 4 has been functioning since 1994, except for a short spell, when the applicant was given the provisional appointment and as such, his appointment cannot be questioned.

6. The application being devoid of merits, is therefore, dismissed. No costs.


Member (A)


Member (J)

/UV/