

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.261 OF 2004  
ALLAHABAD THIS THE 17TH DAY OF MARCH,2004

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A  
HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Akhilesh Kumar Mishra,  
aged about 26 years,  
son of Sri Upendra Nath Mishra,  
Resident of Village-Piparpati,  
Post Office-Piparpati,  
District-Deoria.

.....Applicant

( By Advocate Sri H.P. Mishra )

Versus

1. Union of India,  
through Secretary,  
Ministry of Communications,  
Department of Posts,  
New Delhi.
2. Senior Superintendent of Post Offices,  
Deoria.
3. Inspector,  
Purvi Sub-Division Post Offices,  
Deoria.

.....Respondents

( By Advocate Shri R.C. Joshi )

ORDER

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

In this O.A. filed under Section 19 of Administrative  
Tribunals Act 1985, the applicant has prayed for quashing the  
impugned order dated 01.03.2004 passed by respondent no.3



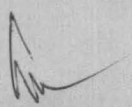
with direction to the respondents to regularise the services of the applicant and also pay regular salary for which he is entitled under law.

2. The facts, in short, are that one Shri Arvind Kumar Singh who was working as Extra Departmental Mail Peon in Post Branch Office, Piparpatti, Deoria was promoted to a regular post on 21.09.2000 and, therefore, the post of E.D.M.P. fell vacant. The applicant was engaged on the post on 25.10.2000 to work as EDDA/EDMP. The respondents issued a notification on 29.01.2001 (Annexure A-4) to fill the post on regular basis. The grievance of the applicant is that by the impugned order dated 01.03.2004 the applicant has been dis-engaged without making any regular selection in pursuance to the notification dated 29.01.2001. Hence this O.A.

3. The learned counsel for the applicant submitted that such an action on the part of the respondent no.3 is illegal. In case a regular selection was made and the applicant was replaced by a regular selectee he had no case but the facts in this case are different so much so that the respondent no.3 has not made any regular selection so far and has terminated the service of the applicant. We find substance in the submission of the learned counsel for the applicant.

4. Shri G.R. Gupta, learned counsel for the respondents prays for time to file counter affidavit. In our opinion, this case can be decided finally at the admission stage itself, therefore, no opportunity of filing of CA has been given.

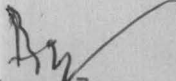
5. In view of the facts <sup>of the case</sup> we are of the view that the

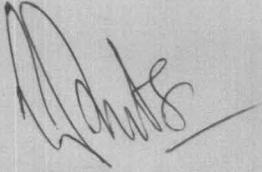




interest of justice shall be better served if the applicant files a detailed representation before respondent no.2 who should decide the same within specified time. The applicant is allowed three weeks time to file representation before respondent no.2 alongwith the copy of the order of this Tribunal and respondent no.2 is directed to decide the same within a period of two months from the date of receipt of such representation with a copy of this order. We also provide that in case the regular selection has not been made so far respondent no.3 shall allow the applicant to work on his post as per rules on the subject. Till the representation of the applicant is decided the impugned order shall remain inoperative.

6. With the above direction, the D.A. stands disposed of at the admission stage itself with no order as to costs.

  
Member-J

  
Member-A

/Neelam/