

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

Original Application No.325 of 2004

Tuesday, this the 6th day of April, 2004.

Hon<sup>ble</sup> Maj. Gen. K.K.Srivastava, A.M.  
Hon<sup>ble</sup> Mr. A.K. Bhatnagar, J.M.

Raghvendra Tripathi,  
aged about 29 years,  
Son of Sri Anirudh Prasad Tripathi,  
Resident of Village- Donoro,  
Post Office- Basia Khore,  
District - Gorakhpur.

.....Applicant.

(By Advocate : Shri R. Trivedi  
Shri V. Srivastava)

Versus

1. Union of India,  
through Secretary ,  
Ministry of Post and  
Communication, New Delhi.
2. Post Master General,  
Gorakhpur.
3. Director, Postal Services,  
Gorakhpur.
4. Senior Superintendent Post Offices,  
Gorakhpur Division, Gorakhpur.
5. Sub- Divisional Inspector,  
Uruwa Bazar, Gorakhpur.

.....Respondents.

(By Advocate : Shri R.R.K. Mishra)

O R D E R

By Hon<sup>ble</sup> Maj. Gen. K.K.Srivastava, A.M. :

In this O.A., filed under Section 19 of A.T. Act, 1985,  
the applicant has challenged the notification dated 24.3.2004



by which the post of G.D.S.M.D./M.C. Mahui Buzurg is to be filled up. The applicant has prayed that the notification dated 24.3.2004 calling for the names <sup>h</sup>from <sup>h</sup>the Employment Exchange be quashed and direction be issued to the respondents to regularise the services of the applicant.

2. The case of the applicant is that he was engaged as EDDR at Devrautula Post Office on 10.01.2000. By order dated 19.3.2001 the applicant was directed to take over <sup>h</sup>the B.P.M. <sup>h</sup>Rozah ~~Raja~~ Dargah Post Office. The applicant assumed the charge of E.D.B.P.M. <sup>h</sup>Rozah ~~Raja~~ Dargah on 22.3.2001. However, by order dated 7.4.2002 the applicant was given fresh appointment at Mahui Buzurg <sup>h</sup>as G.D.A.M.D./M.C. He assumed G.D.S.M.D./M.C. at Mahui Buzurg <sup>h</sup>on 8.4.2002. By order dated 25.11.2002 the services of the applicant were terminated. The applicant challenged the same by filing O.A. No.1463/02 which was disposed of by order dated 16.7.2003. In between the respondent No.4 i.e. Senior Superintendent, Post Offices, Gorakhpur wrote a letter to Post Master General, Gorakhpur i. e. respondent No.2 on 29.11.2002 (Annexure-A-9) by which the respondent No.4 recommended to respondent No.2 for regularisation of the applicant as he has rendered continuously three years service. In view of the recommendation of the respondent No.4 dated 29.11.2002 the respondent No.5 i.e. Sub-Divisional Inspector, Gorakhpur re-engaged the applicant to work as G.D.S.M.D./M.C. The grievance of the applicant is that inspite of clear recommendation of ~~the~~ respondent No.4 vide letter dated 29.11.2002 (Annexure-A-9), no decision has been taken by ~~the~~ respondent No.2 and instead the respondent No.5 has issued impugned notification dated 24.3.2004.



3. Shri R. Trivedi, learned counsel for the applicant inviting our attention to the letter dated 29.11.2002 (Annexure-A-9) submitted that once the case of the applicant was recommended for regularisation to highest authority in the Region, the respondent No.5 should have waited <sup>h</sup>for the <sup>h</sup>out-come of the same. In fact the respondent No.5 is in <sup>h</sup>hurry to fill up the post <sup>h</sup>personally <sup>h</sup>of his own choice. The learned counsel finally submitted that since the applicant has worked for more than three years in the department as G.D.S., he has right to be considered for alternative appointment in case he can not be adjusted on the post, he is already working on. He further submitted that instead of disturbing the applicant, since the post is lying vacant, the applicant can <sup>h</sup>be regularised <sup>h</sup>on the same post without <sup>h</sup>resorting <sup>h</sup>to the process of selection.

4. Shri R.R.K. Mishra, learned counsel for the respondents who accepted the notices on behalf of the Official respondents submitted that the process of selection for regular appointment has been initiated in pursuance to the order of this Tribunal dated 16.7.2003 passed in O.A. No.1463/2002.

5. Learned counsel for the respondents sought for time to file counter. However, since we consider that this O.A. can be finally disposed of at the admission stage itself, we are not inclined to give time for filing the counter.

6. We have heard the counsel for the parties, considered their submissions and perused the records.



7. The respondents' counsel invited our attention to the operative portion of our order dated 16.7.2003 which is quoted as under :-

"For the aforesaid reasons, the O.A. is allowed. The impugned order dated 25.11.2002 is quashed. The respondent Nos.4 and 5 are directed to re-engage the applicant as G.D.S. M.D./M.C., Mahui Bugurg, Uruwa Bazar within one week from the date of communication of this order. He shall not be removed till a regularly selected candidate is available for the post. The applicant shall also not be entitled for any back wages."

8. In the same order we have observed in Para -6 that the applicant's appointment was on provisional basis. We have also observed that though he was engaged for a period of 90 days but he was continued even after the expiry of 90 days. We have also referred in the same para about the letter written by respondent No.4 to respondent No.2 on 29.11.2002. Obviously when the facts mentioned in para 6 of our order dated 16.7.2003 were available, it was expected from the respondents to have considered all the aspects<sup>of</sup> the case concerning the applicant before issuing impugned notification.

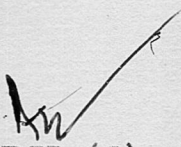
9. In our considered opinion, the ends of justice shall better be served if the respondent No.2 considers the claim of the applicant as recommended by respondent No.4 and takes a final decision within a specified time so that the controversy is killed for all the time to come. While considering the case, the respondent No.2 shall keep~~ing~~ in mind the various instructions issued by D.G. Post on the point that the applicant has worked for more than three years in the respondents' establishment on different posts.



10. In the facts and circumstances and our aforesaid discussions, we dispose of this O.A. at the admission stage itself with direction to respondent No.2 to take a final decision on the letter of respondent No.4 dated 29.11.2002 within a period of three months from the date of communication of this order and pass a reasoned and detailed order.

11. In view of our above direction, we direct respondent No.5 not to proceed in the selection as per the notification dated 24.3.2004 till the issue is finally disposed of by respondent No.2.

12. There shall be no order as to costs.

  
MEMBER (J)

  
MEMBER (A)

RKM/