

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.361 of 2004

Thursday, this the 29th day of April, 2004

Hon'ble Mrs. Meera Chhibber, J.M.
Hon'ble Mr. S.C. Chaube, A.M.

Arun Kumar Chaurasiya,
Son of Sri Gaya Prasad Chaurasiya,
Resident of Village and Post Office Deogaon,
District - Azamgarh.

.....Applicant.

(By Advocate : Shri P.K. Sinha)

Versus

1. Union of India,
through its Secretary,
Ministry of Post and Telegraph,
New Delhi.
2. Chief Post Master General,
Uttar Pradesh Parimandal,
Lucknow.
3. Sub-Division Dak Inspector
(Post Office), Lalganj
Azamgarh.
4. Branch Post Master Shrikantpur,
Azamgarh.
5. Senior Superintendent of Post Offices,
Azamgarh Division, Azamgarh-276001.

..... Respondents.

(By Advocate : Shri R.C. Joshi)

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M. :

By this O.A. applicant has sought quashing of the order dated 12.11.2003 which has been passed pursuant to the direction given by this Tribunal in its order dated 18.07.2003 in O.A. 758 of 2003. He has further sought a

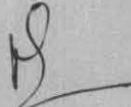


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direction to allow the applicant to continue on his post of Extra Departmental Delivery Agent with all facilities admissible to him according to his service Rules.

2. It is submitted by the applicant that he was appointed as Extra Departmental Delivery Agent in Branch Post Office Shriketpur District-Azamgarh on 26.11.2002 (Pg.23) and charge was given to him on 30.11.2002. It is submitted by him that even though he is eligible candidate under the Rules and has the academic qualification of Intermediate and has sufficient property also under his ownership and he was performing his duty ^{to the best} ~~to~~ entire satisfaction of higher authorities yet he was dis-engaged arbitrarily and illegally on 17.06.2003 orally. He was neither given a show cause notice nor any opportunity of being heard was given to him, therefore, the order was absolutely bad in law. Being aggrieved, he filed O.A. in the Tribunal bearing No.758/03, which was disposed off on 18.07.2003 by directing the respondents to decide his representation within stipulated period. Respondents have now passed the order on 12.11.2003 by explaining that applicant has no right to claim to be appointed as Gramin Dak Sewak, Vitrak.

3. It is this order, which has been challenged by the applicant in the present O.A.. His whole argument is that since the work is ~~not~~ ^{available} available, the post is also available and he was appointed on the said post, he could not have been terminated without being afforded an opportunity of being heard and the same post cannot be given to another person by giving an additional charge. Counsel for the applicant has submitted that since the post is available and he is fully eligible, therefore, it is wrong to give the charge of the said post to another person. He has therefore, sought the reliefs as mentioned above.



4. We have heard applicant's counsel and perused the pleadings as well.

5. Perusal of the appointment letter shows that applicant was engaged purely on the risk and responsibility of Shri Gaya Prasad to work as Gramin Dak Sewak, Vitark. Perusal of the judgment of this Tribunal further shows that when applicant had approached this Tribunal earlier, he had not annexed his appointment letter. Therefore, tribunal was not even aware as to in what capacity he was engaged. Therefore, the observation made by the Tribunal cannot be taken ^{to the} ~~into~~ the findings given by the court of law. In any case, now that we have the appointment letter before us and the position has been fully explained by the Senior Superintendent of Post Offices that applicant was engaged purely on the responsibility of Shri Gaya Prasad Chaurisiya Postal Assistant, Lalganj sub post office on purely temporary arrangement ^{and} ~~but~~ the said temporary arrangement was cancelled and Shri Amarjeet Singh G.D.S. Dak Vitark was asked to look after the work of Dak Vitark as well w.e.f. 16.06.2003. It is thus, clear that applicant was allowed to work only on the responsibility of Shri Gaya Prasad by way of temporary arrangement. By ^{no} ^{any} stretch of imagination, can it be said, that applicant was given appointment by the department on ad-hoc basis and in any case respondents have not appointed another ad-hoc person in his place but have asked a regular GDS Dak Vitark to look after the work of Dak Vitark as well. Therefore, applicant cannot have any grievance nor ^{he} ~~can~~ have any right to claim that he should be appointed or allowed to continue on the said post. It is well settled by Hon'ble Supreme Court that courts cannot compel the department to fill a particular post. If department feels that the work can be done by giving additional charge to another person from the same post office. We cannot give direction to the respondents to fill the post by appointing the applicant or allowing ~~to~~ him

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on the said post. However, in case respondents decide to
fill the post ~~in future~~ and issue the advertisement, it will be open
to the applicant to apply for same and in case he is selected,
he would be ~~come~~ appointed in accordance with law.

6. The D.A. is accordingly dismissed with no order
as to costs.


Member-A


Member-J

shukla/-