

(16) **RESERVED**

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH: ALLAHABAD

**ORIGINAL APPLICATION NO.707 OF 2004**

ALLAHABAD THIS THE EIGHTH DAY OF APRIL, 2005

HON'BLE MR. S .P. ARYA, MEMBER-A  
HON'BLE MR. K.B.S. RAJAN, MEMBER-J

Raj Kumar Shukla,  
Son of Rama Kant Shukla,  
R/o Village Lokmani Ka Pura,  
Post Dawra, Karchhana,  
District-Allahabad (U.P.)

.....Applicant

(By Advocate Sri S. K. Pandey )

Versus

1. Union of India,  
through Secretary,  
Ministry of Post & Telecommunication,  
Dak Bhawan,  
New Delhi.
2. Superintendent of Post Offices, Allahabad.
3. Sub Divisional Inspector (Post),  
Sub Division Meza,  
Allahabad.
4. Sri T.B. Singh (In person),  
S.D.I. (Post) Meza Sub Division,  
Presently working as Asstt. Superintendent  
Of Post Offices, Sub Division Meza,  
Allahabad.
5. Sri Devendra Kumar Tiwari,  
S/o Sri Ram Prasad Tiwari,  
R/o Village & Post Dewra,  
Tehsil Karchhana,  
Allahabad.
6. Sri Vijay Kumar Tiwari,  
S/o Sri Ram Prasad Tiwari,

R/o Village & Post Dewra, Tehsil Karchhana,  
District Allahabad.

.....Respondents

(By Advocate Sri Saumitra Singh and Sri Rakesh Verma )

**ALONGWITH  
ORIGINAL APPLICATION NO.615 OF 2004**

Devendra Kumar Tiwari,  
Son of Shri Ram Prasad Tiwari,  
R/o Village & Post Devra,  
Tehsil-Karchhana,  
District-Allahabad (U.P.)

.....Applicant

(By Advocate Sri N. K. Singh And Sri Rakesh Verma )

Versus

1. Union of India,  
through Secretary,  
Ministry of Post & Telecommunication,  
Dak Bhawan,  
New Delhi.
2. Sub Divisional Inspector (Post),  
Sub Division Meza,  
Allahabad.
3. Sri Vijay Kumar Tiwari,  
Resident of Vill. & Post Devra,  
Karchana,  
Allahabad.

.....Respondents.

(By Advocate Sri Saumitra Singh )

**ORDER**

HON'BLE MR. S .P. ARYA, MEMBER-A

The post in question, on which the appointment is being sought by the applicants in both the O.A.s, being the same, both the OAs are taken up together.

2. The applicant (O.A. No.615-5) seeks for quashing the order dated 16.06.2004 by which one Vijay Kumar Tiwari has been appointed as substitute and for directions to the respondents to allow the petitioner to continue on the post.
3. The applicant (O.A. NO.707/04) seeks for quashing the oral order of termination dated 16.08.2003, appointment order of Shri Devendra Kumar Tiwari dated 22.02.2004 and order dated 16.06.2004 appointing Shri Vijay Kumar Tiwari and his continuance on the post treating the period w.e.f. 16.08.2003 as on duty.
4. The brief factual matrix of the case is that on establishment of the Branch Post Office, Devra, under the jurisdiction of Post Office Karchhana, the post of GDS BPM and GDS MD were to be filled in on contractual or temporary basis. The applicant of both the O.As, worked on the post of GDS MD in different spells of time and the applicant of O.A. no.615/04 Devendra Kumar Tiwari is working at present on the post in pursuance of the order of this Tribunal. The case of the applicant is that the substitute cannot be replaced by a substitute. The applicants of both the O.As are challenging the successive temporary arrangements made on the post of GDS MD.

5. It is stated by the respondents in their counter reply that temporary arrangements, not exceeding 90 days, are made for running the Post Office till regular appointment is made.

6. We have heard the learned counsel for the parties and perused the pleadings. It is evident from the perusal of the pleadings that the temporary arrangements can last only for 90 days and if such an arrangement has to be continued, approval of higher authority has to be obtained. DG Posts of India, in its circular DG (P) No.17-115/2001-GDS dated 21.10.2000, provides as under:-

“Under no circumstances should such local arrangement exceed 90 days of due to some unavoidable reasons the local arrangement needs to be continued beyond 90 days approval of the next higher authority is to be taken on a one times basis for reasons to be recorded in writing.”

7. The applicants or the private respondents worked on the post of GDS MD during the different periods on temporary basis as substitute in temporary arrangement. Regular selection, it appears, could not be made because of the pressures and counter pressures of the applicants and private respondents and other interested parties. However, in existence of the circular of the DG Posts, as quoted above, the temporary arrangement could be made only for 90 days. The applicant has relied on the cases of Palu Ram (1055/99), Raghunath Yadav (1084/03), and Mohd. Naseem (1232/03) decided by this Bench. On going through the judgment, we find that the DG Posts circular has not been considered while deciding the aforesaid cases. The temporary arrangement cannot last forever. Regular appointment to the post has to be made. The authorities have to make positive efforts and to ensure that regular selection to

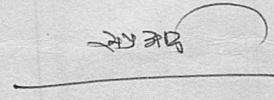


the post of GDS MD is made as per extant rules and instructions. Since all these arrangements were for 90 days specified in the order itself, these cannot continue unless extended on the tacit approval of the superior in this regard. In this regard, none of the orders challenged in the O.A., suffer from any legal infirmity and accordingly deserves no interference.

8. In the peculiar facts and circumstances of the case, we are of the considered opinion that the respondents should be directed to take such effective steps to fill up the post of GDS MD Devra in accordance with extant rules on the subject so that the regularly selected candidate takes over the charge of the post within two months. It is made clear that the respondent would be free to make fresh temporary arrangement independent of earlier orders, according to rules for the aforesaid period.

9. The O.A. is disposed of with the observations and directions as above.

No Costs.

  
Member-J  
Member-A

/NEELAM/