

OPEN COURT.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH; ALLAHABAD.

ORIGINAL APPLICATION NO.1023 of 2004.

Allahabad this the 2nd day of March 2005.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. S.C. Chaube, Member-A

Himanshu Shekhar Chaubey
aged about 24 years
son of Sri Kapil Deo Chaubey,
Resident of H.No.S-24/1-4-A,
Tiktapur Road, Mahaveer Colony,
Ardali Bazar, Varanasi.

.....Applicant.

(By Advocates : Sri B.N. Singh/Sri S.K. Pandey)

Versus.

1. The Union of India
through its Secretary
Ministry of Communication
(P&T) Dak Bhawan, Sansad Marg,
New Delhi.]
2. The Senior Superintendent of Post Offices,
East Division, Varanasi.
3. The Assistant Superintendent of Post Offices
City Sub-Division East Varanasi.

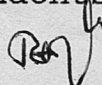
.....Respondents.

(By Advocate: Sri Saumitra Singh)

O R D E R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri S.K. Pandey learned counsel for the
applicant and Sri Saumitra Singh counsel for the
official respondents.



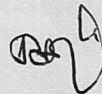
2. Notices to private respondents NO.4 and 5 were issued pursuant to the order dated 24.09.2004 by registered post but neither acknowledgment due nor undelivered cover was received back. In the circumstances, notices, on respondents No.4 and 5, shall be deemed to have been served. None has appeared on their behalf.
3. Impugned herein is the order of 05.06.2004 and 08.07.2004 passed by respondent NO.3. By order dated 05.06.2004, respondent NO.4 Chandra Chura Tiwari who was working as E.D.D.A/E.D.M.C, Bariyashampur, Sarnath, Varanasi has been directed to discharge the duties of E.D.D.A Dak Vitrak Umrah 'till further orders'. The arrangement, according to the order dated 5.6.2004, was purely temporary. By subsequent order dated 08.07.2004, Basant Kumar Tiwari was directed to discharge the duties of Extra Departmental Delivery Agent at Bariyashampur for a period of 90 days with effect from the date of assumption of charge. The operation of the orders dated 5.6.2004 and 08.07.2004 came to be stayed vide order dated 24.09.2004. Subsequently by order dated 16.10.2004, the aforesaid arrangement made at Bariyashampur and Umraha came to be terminated with a direction that Sakha Dak Pal shall perform the duty of E.D.A Umraha as well. The principal relief regarding quashing of order dated 05.06.2004 and 08.07.2004, in the circumstances no longer survives.
4. Sri S.K. Pandey learned counsel for the applicant, however, submits that by order dated 31.05.2004 of Senior Superintendent of Post

Pandey


Offices, Dakpal Nagar Upmandal, Purvotar, Varanasi the applicant is entitled to be given preference. It is submitted by Sri S.K. Pandey learned counsel for the applicant that the arrangement made by order dated 16.10.2004 whereby Sahayak Dak Pal, Umraha has been directed to perform as E.D.D.A., as well in addition to his own duty, is in the nature of temporary arrangement and therefore, the applicant ought to have been given preference in terms of order dated 31.05.2004.

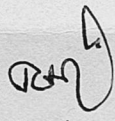
As pointed out hereinabove by order dated 16.10.2004 Sahayak Dak Pal, Umraha has been directed to perform the duties of E.D.D.A., as well in addition to his own duties. The officiating arrangement made by order dated 16.10.2004 has not been impugned in this O.A. Accordingly it is not necessary to go into the question whether the order dated 16.10.2004 attracts violation of what is provided in para 3 of the order dated 31.05.2004 need not be gone into.

5. In the circumstances, therefore, we consider it unnecessary to examine the decision of the Tribunal in O.A. No.1232/03, Mohammad Naseem Vs. Union of India and others and O.A No.1084/03, Raghu Nath Yadav Vs. Union of India and others relied on by the learned counsel for the applicant and the O.A. is liable to be dismissed without prejudice to the right of the applicant to file a fresh O.A. if so advised challenging the order dated 16.10.2004.



6. Accordingly, the O.A. fails and is dismissed without prejudice to the right of the applicant to challenge the order dated 16.10.2004 if so advised by means of a fresh O.A.
7. There shall be no order as to costs.


Member-A.


Vice-Chairman

Manish/-