

(2)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD

ORIGINAL APPLICATION NO. 250 OF 2005

ALLAHABAD THIS THE 16TH DAY OF MARCH 2005

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN
HON'BLE MR. D. R. TIWARI, MEMBER-A

Raghunath Yadav,
Son of Shri Munni Ram Yadav,
Resident of Village-Ban Badhiya,
Post Office-Bhanpur Babu,
District-Basti.

.....Applicant

(By Advocate Shri B. Tewari)

Versus

1. Union of India,
Through Secertary,
Ministry of Communication,
Government of India,
Department of Posts, Dak Bhawan,
New Delhi.
2. Post Master General,
Gorakhpur Division,
Gorakhpur.
3. Sub-Divisional Inspector of Post Offices,
Dumariya Ganj,
Siddarth Nagar.

.....Respondents.

(By Advocate Shri Saumitra Singh)

O R D E R

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN

Heard Shri B. Tewari, learned counsel for the applicant, Shri Saumitra Singh, learned counsel for the respondents and perused the pleadings.

Raj

2. The applicant herein was appointed as a substitute Extra Departmental Agent on 21.12.1999 and worked in that capacity for some time. Thereafter, it is alleged, he has been working as a substitute on the basis of arrangement made from time to time in different Branch Post Offices. It is alleged that at present also he is working as G.D.S. Extra Departmental Mail Peon in Branch Post Office Ghosad under Sub-Post Office Aasnahara, Basti w.e.f. 02.09.2003 for more than four years. The challenge is to the legality of the notification dated 09.02.2005 thereby inviting applications from eligible candidates for the post of Gramin Dak Vitarak/Dak Vahak. It has been contented by the learned counsel for the applicant that having regard to the services rendered by the applicant from time to time since 1999, he is entitled to be considered for regularization on the post held by him and the notification inviting applications for the post in question is liable to be quashed. We are not impressed by the submissions made by the learned counsel for the applicant. No rule has been brought to our notice entitling him as substitute as the applicant is to regularize on the post. Learned counsel for the applicant, however, invited our attention to certain instructions contained in G.I., Dept. of Posts, Lr. No.65-24/88-SPB.1, dated the 17th May, 1989 as entered in Swamy's- Establishment and Administration (Annexure A-5) in support of his

Dear

contention that a substitute is also entitled to be considered for regularization. The letter (Annexure A-5), referred to above, provides that substitutes engaged against absentees should not be designated Casual Labourer. It is provided that for purposes of recruitment to Group 'D' posts, substitutes should be considered only when casual labourers are not available. The letter indicates that the substitute will rank last in priority of the Casual Labourer. This letter, in our opinion, does not help the applicant to claim regularization on the post in question.

3. The learned counsel for the applicant then ~~stated~~ ^{stated} ~~submitted~~ submitted that no recruitment from open market for Group 'D' posts except compassionate appointments will be done till Casual Labourers with the requisite qualification are available to fill up the post in question. This submission is made on the basis of G.I. Dept. of Posts, Lr. No.45-95/87-SPB, I, dated the 12th April, 1991. The reference to the letter in question, in our opinion, is misplaced. Recruitment in question is not in respect of a Group 'D' post rather it is in respect of Extra Departmental Agent.

4. The learned counsel for the applicant then submitted, relying upon D.G., Posts, Letter No. 43-

1209



27/85-Pen., (EDC & Trg.), Dated the 12th September, 1988 that when an Extra Departmental post falls vacant in the same office or in any office in the same place and if one of the existing EDAs prefers to work against that post, he may be allowed to be appointed against that vacant post without coming through the Employment Exchange, provided he is suitable for the other post and fulfils all the required conditions. This provision is also not applicable to the facts of the present case. The reason is that the applicant is not an existing ED Agent and, therefore, the question of applicability of the letter does not arise. Substitutes, in our opinion, may be considered for alternative appointment under the rules but not for regularization under the existing provisions. In the circumstances, the applicant has no right to question the legality of the advertisement in respect of the post in question.

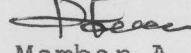
6. Learned counsel for the applicant also placed reliance on a decision of Hon'ble Supreme Court in Jacob M. Puthuparambil Vs. Kerala State Water Authority and Ors. AIR 1990 SC 2228, wherein their Lordships have held that employees appointed by way of stop gap arrangement and are continued for more than two years who were possessing the requisite qualification become entitled for regularization and they should be regularized. The decision relied upon

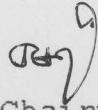
(6)

5

by the learned counsel has been rendered in different context and is not applicable to a substitute appointed in an Extra Departmental Branch Post Office.

5. Accordingly, the O.A. lacks merit and is dismissed in limine. No Costs.


Member-A


Vice-Chairman

/NEELAM/