

RESERVED
CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 26th day of February, 2010

PRESENT:

HON'BLE MR. A.K.GAUR, MEMBER-J

HON'BLE MRS.MANJULIKA GAUTAM, MEMBER-A

Original Application No.396/2005

(U/s 19 of the Administrative Tribunals Act 1985)

Palu Ram,
 S/o late Sri Mithai Lal,
 Resident of Village and Post Office Phulwaria,
 Varanasi Cantt. ...Applicant

(By Advocate : Sri. V.K.Srivastava)

Versus

1. Union of India through its Secretary,
 Ministry of Post and Telecommunication,
 New Delhi-11.
2. Chief Post Master General, U.P., Lucknow.
3. Director of Postal Services, Allahabad.
4. Senior Superintendent of Post Office, Varanasi.
5. Sri Kariman Singh,
 Senior Superintendent of Post Office, Varanasi.
6. Sri. Durga Prasad Singh, E.D.D.A.,
 Varanasi Cantt. ...Respondents.

(By Advocate : Sri.Himanshu Singh (R.1-4)

(By Advocate : Sri.L.M.Singh for R-6)

ORDER

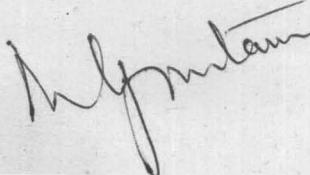
HON'BLE MRS.MANJULIKA GAUTAM, MEMBER-A

The applicant was initially appointed as EDDA in the year 1988 at Head Post Office, Varanasi Cantt. Varanasi on the

M. Manjulika Gautam

responsibility of Shri Hari Nath. Shri Hari Nath was selected and appointed on the permanent post of Postman and he gave charge to the applicant vide charge report dated 5.3.1992. The applicant continued to work as substitute until the orders dated 2.1.1999 and 6-1-1999 issued to him. The respondents dispensed with the services of the applicant appointing Shri Brijesh Kumar Tiwari, S/o Radhey Shyam Tiwari in his place. The applicant sent various representations stating that, as he had worked for ten years, there was no occasion to arbitrarily terminate his services and appoint another person. On getting no response to his representations the applicant filed O.A.1055/99. After hearing the parties the impugned orders dated 2.1.1999 and 6.1.1999 were set aside vide orders dated 1.2.2005. The Senior Superintendent, Post Offices, Varanasi was directed to take appropriate decision in the matter "in the meantime, it is provided that the applicant shall continue until replaced by a regularly selected EDDA."

2. Instead of complying with the above mentioned orders of the Tribunal, the impugned order dated 21.2.2005 has been passed by the Superintendent of Post Office, Varanasi, whereby Shri Durga Prasad Singh has been posted as EDDA in Varanasi Cantt. in place of the applicant, stating that Shri Durga Prasad Singh was a retrenched Ex-employee, who has been absorbed on the post of applicant vide order dated 16.10.2003. Aggrieved by the same the



applicant has filed the present O.A. seeking the following main reliefs:

- i. *That by means of suitable order or direction in the nature of certiorari quashing the impugned order dated 21.2.2005 passed by Superintendent of Post Office, Varanasi (Annexure-5) to the compilation A) and order dated 16.10.2003 which was not served upon the applicant through which Sri Durga Prasad Singh has been absorbed on administrative ground.*
- ii. *That by means of suitable order or direction in the nature of mandamus commanding the respondents to permit the applicant to discharge his duties to the post and pay scale of E.D.D.A. Postman with all benefit as are admissible under rule. The respondent may kindly be directed to make the payment of salary to the applicant and arrears thereof since 1.1.1999 till date with interest and thereafter month to month as and when it falls due.*

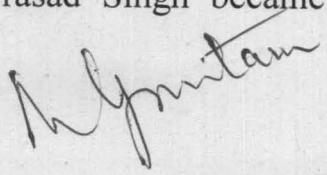
3. The orders of the Tribunal in O.A. 1055/99 dated 1.2.2005 are very specific. The Sr. superintendent of Post Offices Varanasi was directed to take appropriate action and the impugned orders dated 2.1.1999 and forwarding letter dated 6.1.1999 were set aside. Meanwhile, the Tribunal has directed that the applicant shall continue until replaced by a regularly selected EDDA.

4. What is to be seen in this O.A. is whether the impugned orders dated 21.2.2005 are in compliance of the Tribunal's orders dated 1.2.2005 or not ? Directions were issued by the Tribunal to the Sr.Superintendent of Post Offices, Varanasi, whereas impugned order has been issued by Superintendent of Post Offices, Varanasi. The Tribunal had also directed that since the orders of

M. Agarwal

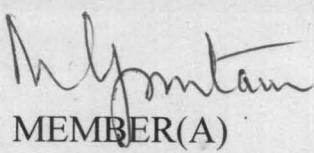
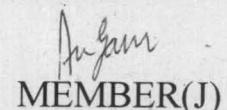
appointment of Shri Brijesh Kumar Tiwari on the post of EDDA, Varanasi Cantt. have been set aside, appropriate decision would be taken by Sr. Superintendent of Post Offices. This implies that the applicant would continue to work as EDDA. In further clarification of its direction the Tribunal vide order dated 1.2.2005 has stated that the applicant shall continue until replaced by a regularly selected EDDA. This direction has also not been complied with and instead of holding regular selection for the post and continuing the applicant until regularly selected candidate takes over, a third candidate named by Shri Durga Prasad Singh who is being treated as retrenched employee, has been absorbed with effect from 16.10.2003. Hence, the stand has been taken that there is no more vacancy on the post of EDDA, Varanasi Cantt.

5. We have heard both parties and perused the records on file. It is very clear that the Tribunal has passed very specific orders vide order dated 1.2.2005. But, instead of complying with these orders, Superintendent of Post Office issued impugned orders dated 21.2.2005. The impugned orders appear as an effort to circumvent the order of the Tribunal and refer to some letter dated 30.12.1999, according to which Shri Durga Prasad Singh, being treated as a retrenched person, was absorbed with effect from 16.10.2003. It is not clear even from the counter affidavit as to how Shri Durga Prasad Singh became regular on the post of

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EDDA, Varanasi Cantt. on 16.10.2003, and yet this fact was not brought to the knowledge of the Tribunal in O.A. 1055/99. We are of the opinion that Shri Durga Prasad Singh's appointment to the post of EDDA, Varanasi Cantt. is not the result of any selection procedure, but has been shown as an administrative matter of treating him as a retrenched employee. If Shri Durga Prasad Singh was already working on the post of EDDA, Varanasi Cantt. from the year 2003 it is strange that this was not brought to the notice of the Tribunal when orders dated 1.2.2005 were delivered. It is very clear that the impugned orders dated 21.2.2005 are subsequent to the orders of the Tribunal dated 1.2.2005 and are in contradiction of the directions given by the Tribunal. We hereby set aside and quash the orders dated 21.2.2005 and direct the 4th respondent, Sr. Superintendent of Post Office, Varanasi to look into the entire matter afresh and ensure compliance of Tribunal's orders dated 1.2.2005 so that until a regularly selected candidate is appointed as EDDA, Varanasi Cantt., the applicant may be allowed to continue on the post.

6. O.A. is accordingly, allowed. No costs.


MEMBER(A)
MEMBER(J)