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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No. 420 of 2005

Tuesday, this the 17th day of May, 2005.

Hon'ble Mr. A.K. Bhatnagar, J.M.
Hon'ble Mr. D.R. Tiwari, A.M.

Sunil Kumar Upadhyaya
S/o Sri Harihar Nath Upadhyay,
R/o Bambripur,
District Auraiya.

....Applicant.

By Advocate : Shri Y.K. Saxena.

Versus

1. Union of India,
Through Secretary,
Ministry of Communication,
New Delhi.
2. Post Master General,
Agra region, Agra.
3. Superintendent,
Post Office-Etawah/Auraiya
4. Post Master/Asstt.
Superintendent of Post Office,
Auraiya.

....Respondents.

By Advocate : Shri S. Singh.

O R D E R

By Hon'ble Mr. A.K. Bhatnagar, J.M. :-

By this OA, the applicant has prayed for following relief(s) :-

"(i) to issue a writ of certiorari order or direction in the nature of certiorari quashing the impugned order dated 23.3.2004 passed by the respondent No.2.
(ii) To issue a writ of mandamus directing the respondent to allow the applicant to continue as post master Bambripur.

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(iii) To issue a writ of mandamus directing the respondent to pay salary alongwith arrears to the applicant in accordance with law admissible to the post of Branch Post Master.

(iv) To issue a writ of mandamus directing the respondent to regularize the applicant's service to the post of Branch Post Master in accordance with law."

2. The brief facts giving rise to this OA as per the applicant are that the father of the applicant was working as Branch Post Master since 11.1.1978. In the year 2001 the father of the applicant had fallen ill and hence the applicant was allowed to work as substitute on his place from 6.1.2001 (Annexure-1). He was also paid salary in accordance with law w.e.f. 6.1.2001 to 28.2.2002. Thereafter, the father of the applicant took voluntary retirement on 3.3.2001 on medical ground. According to the applicant he had served on that post since 6.1.2001 to 28.2.2002 and he was also paid salary regularly. He filed an application for regularization of service, when no action was taken. He filed an OA No.1167/03 decided on 11.2.2004 by which a direction was given to decide the representation of the applicant. In pursuance to that order the representation of the applicant was decided by order dated 22.3.2004 which has been challenged in this OA.

3. We have gone through the order passed by the respondents dated 22.3.2004 in which it is stated that the father of the applicant on account of his illness handed over the charge of GDS BPM Bamripur to the

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applicant at his own accord without approval of the Competent Authority i.e. SPOS Etawah. Later on Shri Hari Har Nath Upadhyaya requested for retirement on the medical grounds, thereafter, he was retired on 3.3.2001. In his place one Sri Narain Prajapati GDSMD Bamuripur was given the charge on the said post on 19.4.2001. The applicant held the charge of GDS BPE Bamuripur w.e.f. 8.1.2001 to 18.4.2001 as substitute. Sri Narain Prajapati was granted paid leave w.e.f. 7.9.2001 to 16.9.2001 so the applicant was again given charge due to the leave arrangement as a substitute in place of Sri Narain Prajapati. We have perused the para 4(i) of the order, in which it is clearly stated that, thus the applicant is not having any claim for his engagement of appointment on the basis of his past services rendered as substitute in the department. His allowances for the period 8.1.2001 to 18.4.2001 and 7.9.2001 to 16.9.2001 have already been paid and he is not entitled for any allowance for the period 1.3.2002 to 10.6.2002 in which he worked unauthorisedly. As the applicant only worked as a substitute so it does not confer any right to the applicant for claiming regularization on the post.

4. Under the facts and circumstances, We do not find any illegality in the order passed by the Concerned Authority. Accordingly, the OA is dismissed in limine. No order as to costs.


Member-A


Member-J