

OPEN COURT
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 27th day of October, 2009

PRESENT:

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

Original Application No. 525 of 2005
(U/s 19 of Administrative Tribunals Act 1985)

Udai Bhan, S/o Sri Ram Sahai,
Resident of Village Eoni, District Jhansi. Applicant

(By Advocate Shri Upendra Mishra)

Vs.

1. Union of India through Secretary,
Ministry of Communications,
(The Post Master General),
New Delhi.
2. Senior Superintendent of Post Office,
Jhansi Division, Jhansi.
3. Chief Post Master General,
U.P.Circle, Lucknow.
4. Post Master General, Agra Circle,
Agra, U.P.Respondents

(By Advocate Shri S.C.Mishra)

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J

Heard the learned counsel for the applicant.

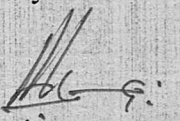
This application is filed seeking for quashing of the order
dated 31.12.2004 (Annexure A-7)

2. The case of the applicant is that he was appointed on the post of Gramin Dak Sewak on leave vacancy vide order dated 21.8.1999 permitting to perform duties for a period of 2.8.1999 to 29.10.1999 on the place of Shri Ram Sahai, the father of the applicant, who was working as Extra Departmental Delivery Agent (GDS Mail Deliverer) at Markuan Branch Post Office (Mauranipur). The applicant joined the service as substitute and performed his duties, for which the payments were also made by the respondents regularly. In spite of the fact that his services were discontinued by the respondents, he filed this O.A. seeking a direction to the respondents for regularisation of his service.

3. On notice, the respondents have filed a counter affidavit stating that the applicant was the son of an Ex-employee Shri Ram Sahai, who was working as EDDA at Markuan Branch Post Office (Mauranipur) with effect from 8.12.1999 to 31.12.2002. During his service period he submitted leave applications for the following periods and remained on leave:

1. 2.8.1999 to 29.10.1999
2. 9.4.2002 to 6.7.2002
3. 8.7.2002 to 31.7.2002
4. 1.8.2002 to 31.8.2002

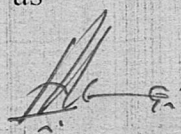
4. As per Directorate General's instructions, during the leave, every E.D. Agent should arrange for his work being carried on by



a substitute, who should be a person to be approved by the authority competent to sanction leave to him. Accordingly, during the above period of leave Shri S Ram Sahai, Ex. EDDA, Markuan, who is the father of the applicant himself arranged the applicant (his son) as his substitute at his own risk and responsibilities. Thus, the applicant was allowed to work as a substitute by the SDI, Mauranipur, who was the leave sanctioning authority (Anne.A-1 to the Counter Affidavit).

5. Respondents further contended that the father of the applicant remained absent from duty unauthorisedly on many occasions and allowed his son (the applicant) to work unauthorisedly as substitute on the said post without any approval of the competent authority. Therefore the respondents have taken the decision not to continue him in service, as the applicant has not appointed through a regular process of selection, and therefore, he has no right to continue in service and sought for dismissal of the O.A.

6. On perusal of the application and on the basis of the contentions made by the learned counsel for the applicant, it is clear that the applicant was taken on duty as a substitute for a leave period, that too of his father who was on leave for many occasions. He was never appointed as EDDA Markuan, as is evident from letter dated 21.8.99. He was simply engaged as



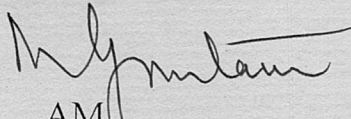
substitute in place of his father. On 9.10.2002 when his father turned up to duty, the applicant was relieved on the said post. The allowance for the period of his engagement as substitute was also paid to him and he has no legal right to continue in service. Respondent authority felt that his service is no more required for any purpose. The authorities are the best to decide regarding the requirement of the applicant. The action taken by the respondents are in accordance with departmental rules and instructions. We do not find any justification to interfere with the decision of the respondents as the applicant has no enforceable legal right to continue in service. It is also contended that, none has been engaged against the vacant post of GDSDA, Markuan, since the retirement of regular incumbent of Sri Ram Sahai and no appointment has been made, as per the policy of the department, and the work of the post is being managed on temporary basis. This is a matter, that competent concern/authority has to look into depending upon the administrative exigencies.

7. As the applicant contends that there is one post of GDSMD is vacant, but, however if the said post is vacant, it is for the competent authority to take steps to fill the post or to provide work for substitutes or otherwise who is eligible for doing the work in accordance with rules.



8. The applicant has no right to continue in the said post in the absence of regular selection to the post in accordance with rules. As there is no other material produced, the applicant's father he himself created the post by going on leave on many occasions and the applicant was put as substitute to perform his duty and, as such the applicant has not made out any case for grant of the relief sought in the O.A.

9. In view of the foregoing reasons, the O.A. is dismissed.


AM


JM

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