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(A3/1) (6)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration No. 398 of 1986

Subedar Singh Applicant

Versus

Senior Superintendent of Post ... Respondents.
Offices, Lucknow & Another.

Hon. Ajay Johri, A.M.

Hon. G.S. Sharma, J.M.

(By Hon. Ajay Johri, A.M.)

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This is an application under Section 19 of the Central Administrative Tribunals Act XIII of 1985. The petitioner Subedar Singh was appointed as Extra Departmental Branch Post Master on 1.8.1985 consequent to the absconding of the previous incumbent Shri Puran Lal who was later found to have been murdered. According to the petitioner no one was ready or willing to work as Extra Departmental Branch Post Master at Amousi and it was after great pursuance of the Assistant Supdt. Post Offices Shri K.N. Tiwari and Office Superintendent Shri Ram Ashray Kureel that he took over charge of this post. According to the petitioner one Bajrang Saran Pandey was appointed on the same vacancy of which the charge was given to him on 1.8.1985. The petitioner's formal application for appointment to the post was rejected on 24.10.1985 and when he made a second appeal on 21.11.85 while he was still continuing on the post as Bajrang Saran Pandey did not join, no letter of appointment was issued in his name but one Mahendra Pratap Singh was appointed to the post of Extra Departmental Branch Post Master on 8.7.86. The petitioner, therefore, has come to the Tribunal with a prayer that the respondents be directed to appoint him as as Extra Departmental Branch Post Master at Amousi and the appointment letter of 8.7.86 issued in favour of Mahendra Pratap Singh be quashed.

2. The respondents' case is that one Shri Radhey Lal Yadav who was working as Extra Departmental Branch Post Master at Amousi was put off duty on 10.12.76 having been involved in a disciplinary case. Temporary arrangements were therefore made vice him and Shri Puran Lal who absconded on 6.7.85 who was originally Extra Departmental Delivery Agent was put to officiate on this post. The regular incumbent of the post i.e. Radhey Lal Yadav was ultimately removed from service on 1.1.1985 and therefore this post was advertised. During the period that Shri Puran Lal absconded and till final arrangements were made for filling up of the post the petitioner was temporarily asked to look after the work of the Extra Departmental Branch Post Master on the recommendation of his father who was working as Departmental Postman at Sarojini Nagar Post Office. According to the respondents the appointment of the petitioner was purely temporary and did not give him any right for permanent absorption and therefore there was nothing illegal in the appointment of Shri Mahendra Pratap Singh who was duly selected from amongst six applications ^{n 31} including the ³¹ ~~petitioner~~ ^{whose applications} were received when the post was advertised.

3. The learned counsel for the petitioner has laid stress on the qualification ²⁴ ~~of~~ ^{and experience} of the petitioner. He has argued that the petitioner is better qualified than the person who has been posted in his place. He is a matriculate, is a local person and has more income ³⁴ ~~than~~ ^{and has worked in the post for about one year} than the new incumbent. The learned counsel for respondents has stressed on the independence of the executive in making appointments and has justified the termination of the petitioner who had no lien to the post. We have heard both the counsel.

4. The petitioner was appointed as Extra Departmental Branch Post Master, Amousi on 1.8.1985. He accepted the appointment after great persuasion of the Asstt. Supdt. Post Offices and Office Supdt. at Lucknow as alleged by him, as no one was prepared to take over after the brutal murder of the previous incumbent. According to the respondents he was appointed on the risk and responsibility of Shri Bhisham Singh - the petitioner's father who was working at Sarojini Nagar, Post Office till regular arrangements could be made, and ~~accordingly~~ this post was advertised in September, 1985.

5. The facts of the case are not disputed. The petitioner was appointed in a vacancy caused by the murder of Shri Puran Lal the previous incumbent. Shri Puran Lal was an Extra Departmental Delivery Agent and was temporarily engaged as Extra Departmental Branch Post Master on 1.9.84 till regular appointment could be made. The regular incumbent of the post Shri Radhey Lal Yadav was put off duty on 10.12.1976 and it was only after his services were finally terminated on 1.1.85 that regular arrangements to fill up the post were initiated and Shri Mahendra Pratap Singh was selected from amongst the six applicants including the petitioner.

6. The learned counsel for petitioner has argued that there was no complaint against the working of the petitioner. He could only be removed by suitable disciplinary action. His removal simpliciter is violative of the principles of natural justice. In this connection our attention was drawn by the learned counsel for respondents to Rule 6 of the Service Rules for P & T Extra Departmental staff. This rule reads as follows :-

" The service of an employee who has not already

rendered more than three years' continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice. "

This rule is very clear and the services of the petitioner could legitimately be terminated by the Department without violation of any rules. The petitioner was appointed on 1.8.1985 and he has not rendered more than 3 years service. It was not a case of termination due to Discipline and Appeal action. We do not find any force in this argument. The right to be retained in service was not a fundamental right. We do not see any abuse of power in this action. There was also no want of jurisdiction or flagrant disregard of principles of law.

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7. We also do not believe in judicial expansionism, Courts should not interfere when there is no apparent point of law involved or when principles of natural justice have not been violated. The contention of the learned counsel for petitioner that the petitioner was more qualified than the person who has been selected is purely a subjective assessment of himself. This Tribunal will not like to sit in judgement on the process of selection unless something specific violating the rules is highlighted or the selection process is proved to be mala fide or not on good ground. The facts of the case do not persuade us to accept the view expressed by the learned counsel for the petitioner.

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8. In conclusion we find no force in the ~~contentions~~.
The petition is dismissed with costs on parties.

[Signature]
A.M.

[Signature]
19/11/86
J.M.

RKM

Dated the 19th Nov., 1986.