

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

T.A.No. 528/87

in
(O.S. 349/83)

R.D.Tripathi.....

.....Applicant

Versus

Hargopal and others..

.....Respondents.

Hon'ble Mr. Justice U.C.Srivastava, V.C.
Hon'ble Mr. K.Chayya, A.M.

(By Hon'ble Mr. Justice U.C.Srivastava, VC)

This is a transferred application under section 29 of the Administrative Tribunal Act.

2. The applicant filed a suit for injunction in the court of Munsif Bansi, at Basti praying that treating all the memos No. B-4/LSG/22.2.82 ~~Ram Dularey~~ ~~Tripathi~~ and B/Ram Dularey Tripathi dated 17.3.82 of defendant no.1 i.e. Har Gopal Narang Superintendent Post Offices and memo STA/12-XA/LSG/Sal/80/7 dated (10.00) 12.2.82 and STA/192-RR/82/7 dated 6.8.92 of the defendant no.2 illegal and the applicant be declared continuing permanently in LSG Cadre with all appending benefits thereof since 10.2.82 as per plaint.

3. The defendants filed written statement in the said case and the case was decided by the Court of Munsif against which ~~the~~ order the applicant filed an appeal which has been transferred to this Tribunal for adjudication, although the applicant's claim that he was appointed in L.S.G. Cadre and admittedly the applicant had put in about 31 years service when he filed a suit and it appears that he has retired now from service though the claim of the applicant is that he was appointed in LSG cadre and according to him every action which has been taken against him was the result of the act of Mohd. Umar Khan the Post Master General U.P. who belongs to the same village

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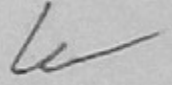
and with whose family and the applicant there has been a litigation from the past.

4. According to the respondents he was temporary officiting in LSG cadre by the local arrangement and the selection which was made by the committee there was only a district level committee for making such selection and one committee selection have been made at the head quarter Lucknow and this committee which selects and confirms employees of LSG cadre subject to seniority of the applicant as the applicant was never selected by the DPC he cannot calim himself to be regularly appointed LSG. The so called DPC at the local level was decided by the Superintendent of post offices who was also impleaded as party to the suit and the appointment of the applicant as LSG at Basti was a temporary arrangement and on the basis of seniority prevailing in that division. The name of the senior employees in the department of each concerned were sent to the circle office. The name of the applicant was also sent for selection to the LSG post by the DPC circle office Lucknow and the applicant's CR was also sent. The applicant's case was also considered by the DPC but DPC did not find him fit because of unsatisfactory CR that is why the applicant was not selected. The applicant filed a representation against the same and the appellate authority after considering the representation rejected the same though the record already justifies that the selection of the applicant in LSG cadre was only at local level and the selection made in circle level and not at local level. By virtue of seniority which a person gets, the appointment on higher post at the district level or local level which cannot make the claim of

seniority of selection at the circle level as in the post offices the selection is made at circle level. The applicant was not found fit and that is why he was not selected. Even now it is difficult to have said that the Post Master General ~~xxxxxx Post Master General~~ who has a relation with his family and was instrumental in non-selection. It is an allegation and no other allegation ~~xxxxxxxxxxxxxxxx~~ of malafide etc have been made against the DPC and it will not be possible for the Tribunal to sit in assessment over the proceedings of DPC and accordingly the applicant has failed selection, the applicant was not selected by the DPC. The applicant has no right to claim the said post and as such the suit was rightly dismissed. As the applicant under the injunction order passed by the trial court continued so and the applicant has enjoyed the office till then with the result that he will be entitled to benefit of salary which he was getting at the time of retirement. With these observations this application that is the suit is dismissed.

5. That is no order as to the costs.


A.M.


V.C.

Dated: Allahabad
19.8.92
(AR)