

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH

ALLAHABAD

DATED: THIS THE <sup>JULY</sup>~~15~~ DAY OF ~~JUNE~~ 1997

CORSM :- Hon'ble Dr. R. K. Saxena JM  
Hon'ble Mr. S. Dayal AM  
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ORIGINAL APPLICATION NO. 901/92

Smt. Pushpa Devi w/O Pannalal  
Resident of Village, Mehendi,  
P. O. Mehendi (Jamuwan) Machhlisahar,  
District Jaunpur- - - - - Applicant

C/A Sri K. K. Misra

Versus

1. Union of India through Ministry  
of Communication, Post and Telegraphs.  
Department, New Delhi.
2. Post Master General, U.P. Circle,  
Lucknow.
3. Director Of Postal Services,  
Allahabad.
4. Superintendent of Post Offices,  
Jaunpur.
5. Pradeep Kumar Yadava  
son of Srinath Yadav,  
resident of Village & Post Mehendi,  
( Guljarganj )  
District : Jaunpur.- - - - - Respondents

C/R Sri A. Sthalkar.

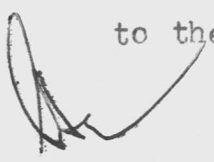
ORDER

By Hon'ble Mr. S. Dayal AM

This is an application filed under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant has sought relief by way of directions to the respondents to issue a letter of appointment to the applicant for the post of Extra Departmental Branch Post Master.

3. The applicant has mentioned in the application that a Branch Post Office was opened at Mehendi, District Jaunpur. Subsequently the post of Extra Departmental Branch Post Master got created and the Employment Exchange was asked to sponsor 3 to 5 names for the post. The Employment Exchange sent a Panel of 3 names which included the name of the applicant and that of respondent no.5 Sri Pradeep Kumar Yadav. The applicant claims that she fulfilled all the requisite qualification for the post and belong to the preferential category of Scheduled caste. <sup>the</sup> She should, therefore, have been given appointment. On the other hand the respondent No.5 did not possess the adequate means of livelihood. She made complaints against the irregular appointment of respondent due to which the Superintendent of Post Office, District Jaunpur terminated the services of the respondent no.5 under rule 6 of E.D.A. (Conduct and service) Rules, 1964. He claims that the respondent no.5 had filed O. A. no. 48/92 which was disposed of by giving directions to the respondents to make fresh selection after 3



months after giving a opportunity to the respondent

no. 5 because his services have been terminated without giving him an opportunity of show cause.

3. The arguments of S/Shri K.K. Mishra, learned counsel for the applicant and Sri Amit Sthelekar, learned counsel for the respondents were heard. Pleadings on record of this case have been considered. Our conclusion are contained in the following paragraphs.

4. The applicant has stated in the last sub paragraph of paragraph 4 of the O.A. that O.A. no. 48/92 filed by the Respondent no. 5 was disposed of by a bench of his tribunal with directions to make a fresh selection after three months after giving an opportunity to Respondent no. 5. This averment, which is incorrect, is made probably to give an impression that there is <sup>no</sup> inconsistency in seeking relief by the applicant inspite of the judgment of the Tribunal in OA 48/92. The direction given in OA 48/92 <sup>however,</sup> reads as follows:-

"According this application deserves to be allowed and the termination order dated 06.01.92 is quashed and the applicant will be deemed to be continuing in service. However, it will be open for the respondents to give an opportunity of hearing to the applicant and thereafter to pass the necessary orders. Let it be done within a period of 3 months from the date of communication of this order."

The application deserves to be dismissed for making such an averment.

5. The applicant has sought the relief of appointment as E.D.B.P.M. This relief can not be given to the applicant unless the appointment of Respondent no. 5 is set aside

This bench has no jurisdiction to adjudicate on this issue because another Division Bench of this Tribunal has already adjudicated on the issue of the right of the respondent no. 5 to hold the post of E.D.B.P.M. The applicant in the present case had filed an application for impleadment in OA 48/92 which was allowed and order was passed that the applicant in the present case would be heard in OA 48/92. This order was passed on 24.04.92 when the pleadings were completed and the OA was adjourned for hearing on 12.05.92. Although the record of OA 48/92 does not show that any amendment was made in the O.A., the applicant in this case appears to have been heard in that case as a respondent and had also received a copy of the judgment in that case as a party. Thus it is clear that the applicant was a party in OA 48/92 in which the direction quoted in the last paragraph were passed in their judgment by a division bench of this Tribunal. The OA of the applicant is, therefore, misconceived and barred by res judicata.

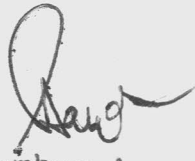
6. The judgment in OA 48/92 was pronounced on 12.05.92. This OA was filed on 07.07.92 and an injunction was granted by way of interim relief barring regular appointment of E.D.B.P.M till further orders. It resulted in a state of non-implementation of judgment in OA 48/92. The learned counsel for the respondent filed a miscellaneous application dated 27.11.92 kept on page 51-52 of the record of the case praying for a classification of interim order was neither given a number nor listed by the office for orders of the bench. We consider it necessary in the interest of justice to give time of three months for complying with the judgment of the Tribunal in OA 48/92 to the date of receipt of a copy of this order for the

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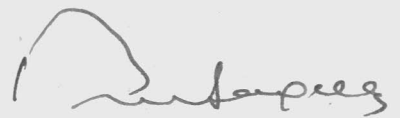
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applicant in this case. The order of stay on regular appointment granted at the time of hearing for admission of this case is also withdrawn.

7. There shall be no order as to costs.



Member-A



Member-J

/pc/