

THE GENERAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

C.A. No. : 128 of 1992

T.A. No. :

DATE OF DECISION:

12/11/92

Hemant Kumar GradKari —— PETITIONER.

— ADVOCATE FOR THE  
PETITIONER.

VERSUS

Union of India & ors —— RECOMMENDERS.

— ADVOCATE FOR THE  
RECOMMENDERS.

QUESTION

The Hon'ble Mr. Jittee B. C. Saksena, V.C

The Hon'ble Mr. Sir Das Gupta, Member (A)

1. whether the orders of loc. 1, 2, 3, 4 may be allowed to  
serve the Judgment? X
2. to be referred to the Reporter ~~or not~~? ✓
3. whether their Lordships will be sent the fair copy  
of the Judgment? X
4. whether to be circulated to all other Bench? X

BSC

SIGNATURE

Balaji

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Allahabad, this the 12<sup>th</sup> day of Nov., 97.

O.A. No. 128/92

Hemant Kumar Gadkari, son of V.K. Gadkari, Ex-Casual employee of Aligarh Post office, r/o Aligarh, address at Delhi for service of notices C/o Shri Sant Lal Advocate C-21(B) New Multan Nagar, Delhi-56.

Applicant.

versus

1. Union of India through the Secretary, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Uttar Pradesh Circle, Lucknow.
3. The Senior Superintendent of Post Offices, Aligarh Division, Aligarh.

Respondents.

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S.DAS GUPTA, MEMBER(A)

O R D E R

HON. MR. JUSTICE B.C. SAKSENA, V.C.

Through this O.A. the applicant challenges the order dated 17.1.86 terminating his services. He has also challenged the order dated 31.10.91 contained in Annexure A-2. By this order the applicant's representation against termination order has been decided. The representation has been rejected for two reasons indicated in the said order:

- i) That the applicant was not sponsored by the Employment Exchange Aligarh which is a prerequisite for employment.
- ii) The applicant did not possess the requisite minimum qualification for the post at the time of appointment. The applicant has also sought consequential relief of a direction for his reinstatement in service as also grant of salary in the pay scale of Rs 210//270, as also in the revised scale. He has also sought a direction to be issued to the respondents to regularise the applicant from the date his juniors were so regularised.

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2. We have heard the learned counsel for the parties and have been taken through their respective pleadings.

3. The applicant has challenged the order of termination on the ground that the Department of Posts is an 'Industry' as defined in section 2(J) of the Industrial Disputes Act. He has also raised the ground of violation of provisions of section 25(F)/25(N) of the Industrial Disputes Act.

4. The learned counsel for the applicant made submissions based on the aforesaid provisions of the Industrial Disputes Act and also sought to place reliance on the following decisions:

i) Shri Braham Prakash Debbas vs. Union of India and others(O.A. 1447/90 decided on 3.5.91 by the Principal Bench of the C.A.T.

ii) Ramesh Kumar vs. Union of India and others (O.A. No. 2179/90 decided on 16.8.91 by the Principal Bench of the C.A.T.)

Copies of the above two judgments have been filed as Annexures A-24 and A-25 to the O.A.

4. In view of the recent Supreme Court decisions this Tribunal is not competent to adjudicate on plea alleging violation of certain provisions of the Industrial Disputes Act. Such plea based on violation of the provisions of Industrial Disputes Act not being cognizable by this Tribunal, is rejected.

5. The learned counsel for the applicant next submitted that one Munna Singh, an outsider and fresh candidate has been appointed to replace the applicant. This plea also cannot be entertained for the reason that Munna Singh has not been impleaded as respondent, nor any relief against the order of his appointment has been sought.

6. The respondents, in their counter affidavit have indicated that the applicant has worked with effect from 26.5.79 to 17.1.86 as a contingent paid Electrician. The

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BCL

order for termination of his services was passed because one regularly appointed employee Munna Singh had joined on the said post. It has further been indicated that the Post Master General, U.P. Circle by his letter dated 19.6.79 had sanctioned only one post of Wireman in the District Aligarh <sup>as a temporary arrangement</sup> and the applicant had been engaged purely till appointment of a regular candidate.

7. Admittedly, the applicant did not possess the requisite qualification for appointment to the post of Wireman, on the date of his initial appointment. The respondents have also indicated that even on 17.1.86 the applicant did not possess any technical qualification of Wireman/Electrician.

8. In view of the discussions, hereinabove, we do not find any good ground to interfere with the impugned orders. The O.A. lacks merit and is accordingly dismissed. Parties to bear their own costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Allahabad; Dated: 12.11.97

Shakeel/-