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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 18th day of October 1995.

Original Application no. 1282 of 1993.

Hon'ble Mr. T.L. Verma, Judicial Member
Hon'ble Mr. S. Dayal, Administrative Member.

Smt. Kamlesh Verma, 28 Years, W/o Shri M.C. Verma, R/o
Village Deorania, Rampur.

... Applicant.

C/A Sri A.K. Banerjee

Versus

1. Union of India through Senior Superintendent Post Office, Moradabad Division, Moradabad.
2. Assistant Superintendent, Post Office Ram-pur, Sub Division Rampur.

... Respondents.

C/R Km. Sadhana Srivastava.

ORDER

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunal Act, 1985. The relief sought by the applicant is the quashing of impugned order and action taken by the respondents and restoration of the applicant to perform her duties with all consequential benefits.

2. The applicant claims that she took charge of the vacant post of E.D.B.P.M. , Deorania, on 08.02.92. She claims that she performed the duties till 16.11.92, which was more than nine months. She handed over the

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charge of the post to Sri Ram Singh, who was said to be appointed as E.D.B.P.M., Deorania. Later on the appointment of Sri Ram Singh was held invalid vide judgement of the Tribunal dated 23.03.93 and the post of E.D.B.P.M., Deorania, was vacant till the time of filing of the application.

3. The arguments of Sri A.K. Banerjee were heard for the applicant. Km. Sadhana Srivastava presented arguments on behalf of the respondents.

4. The applicant has claimed relief firstly on the ground that she fulfilled all the prerequisite conditions for appointment as E.D.B.P.M. This claim has been rebutted by the respondents in the counter affidavit. They have mentioned that in the previous application filed by the applicant at no. 1580 of 1992, the Tribunal had held that both the applicant Smt. Kamlesh Verma and Sri Ram Singh were not qualified and directed the respondents to make recruitment afresh. Thus the issue had been adjudicated in the past and is barred by res judicata.

5. The applicant has not produced either the order of her appointment or the order of her termination as Annexures to the application. Annexure 1 is merely a report of handing over and taking over of charge. The respondents have mentioned in the counter affidavit that the applicant was engaged as a substitute on the risk and responsibility of her husband who was Extra Departmental Branch Post Master and was appointed as a Postman on regular basis. This is also mentioned in the judgement of the

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in OA 1580 of 1992. The respondents have stated that records available in Deorania Extra Departmental Branch Post Office shown that the applicant's husband worked unauthorisedly in her place from 10.02.92 to 16.11.92.

6. It has been mentioned by the respondents in their counter affidavit that educational qualification for appointment as an Extra Departmental Branch Post Master is matriculation with effect from 01.04.93. Thus the applicant is not qualified now for appointment as E.D.B.P.M.

7. In so far as the question of section 25 F of the Industrial Disputes Act is concerned, the learned counsel for the respondents has cited the judgement of Madras Bench of the Tribunal in O.A. no. 884 of 1990 delivered on 25.05.92 that a substitute was not a workman and was, therefore, not entitled to any relief.

8. The application lacks merit and is ^{dismissed} ~~rejected~~.

9. Respective costs of the proceedings shall be borne by the parties themselves.


Member-A


Member-J

/pc/