

25

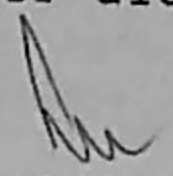
OA 1041/93


19.3.2002

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

We have heard Shri Ashish Srivastava, holding brief of Shri K.C.Sinha learned counsel for the applicant and Shri Amit Sthalekar/<sup>and Shri P.N.Tripathi</sup> learned counsel appearing for the respondents. Order dictated, typed separately.

  
MEMBER(A)

  
VICE CHAIRMAN

UV/



26

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

THIS THE 19TH DAY OF MARCH, 2002

Original Application No. 1041 of 1993

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Girja Shanker Dubey, Son of  
Shri Rajmani Dubey, Resident of  
Village and B.P.O Sirauli(Meerganj)  
District Jaunpur, working as  
E.D.B.P.M Sirauli, Jaunpur.

... Applicant

(By Adv: Shri K.C.Sinha)

versus

1. The Union of India through  
The Secretary, Ministry of  
Communicsation, department of  
Posts, Dak Bhawan,  
New Delhi.
2. The Post Master General  
Allahabad Circle,  
Allahabad.
3. The Superintendent of  
Post Offices, jaunpur.
4. Sri sukhvidhan Dubey,EDBPM  
Sirauli(Meerganj),Jaunpur.

... Respondents

(By Adv: Shri Amit Sthalekar)  
& Shri P.N.Tripathi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this application u/s 19 of A.T.Act 1985 the applicant has challenged the order dated 6.7.1993(Annexure 1) by which respondent no.4 was taken back in duties on his usual post of EDBPM, Sirauli, district Jaunpur. The applicant has also prayed for a declaration or direction to the respondents to treat the appointment of the applicant w.e.f. 2.11.1992 on regular basis and not provisional.



:: 2 ::

The facts giving rise to this application are that in 1991 a new post office was established in Sirauli(Meerganj) in district Jaunpur. In order to fill up the post of EDBPM, a letter was sent to employment exchange for sponsoring the names of suitable candidates. The employment exchange sponsored the name of the applicant as well as respondent no.4. the applications were submitted thereafter alongwith necessary documents. The respondent no.4 was given appointment on 30/31.8.1991. The appointment of respondent no.4 was challenged by the applicant by filing a complaint. On the basis of the complaint of the applicant the appointment of respondent no.4 was cancelled by order dated 7.2.1992 aggrieved by which respondent no.4 filed OA no.251/92 in this Tribunal which was allowed by order dated 14.1.1993. The operative part of the order is being reproduced below:

"Accordingly, the application is allowed and the order dated 7.2.1992 is quashed. However, it will be open for the respondents to pursue the matter after giving an opportunity of hearing to the applicant and pass an order in accordance with law. No order as to costs."

The grievance of the applicant is that after the judgement of this Tribunal, respondents passed the order dated 6.7.1993(Annexure 1) taking back respondents no.4 to his duties on his usual post of EDBPM Sirauli. In other words, the grievance is that action was not taken with regard to the irregularity in appointment. From perusal of the pleadings of the parties and the judgment of this Tribunal earlier

R—f



passed, it appears that the applicant was not selected for appointment on the ground that the accommodation possessed by him was not <sup>at</sup> suitable for running the post office and on this basis respondent no.4 was given appointment. About the suitability of the accommodation there are pleadings and counter pleadings, in order to sort out the correct position this Tribunal vide order dated 5.3.1997 directed the respondents to produce the record pertaining to the appointments of ED Posts, so that the record may be <sup>available for perusal by</sup> ~~sent by~~ the bench at the time of final hearing. Shri Amit Sthalekar has produced it before us. From perusal of the record it appears that in 1991 inquiry was made about the existence of the suitable accommodation for running the post office. There is an application written by applicant dated 22.7.1991 wherein he has stated about the accommodation in the following words:

"मै गिरजा शंकर दूबे निवासी ग्रा०पो० सिरौली बयान करता हूँ कि मै ग्राम सिरौली का स्थाई निवासी हूँ मेरे नाम पर सलग्न खतौनी के आधार पर लगभग 4 एकड़ जमीन है । मेरी शैक्षिकयोग्यता पूर्व मध्यमा है । मेरे द्वारा प्रस्तावित मकान 18x10 का पक्का कमरा है । इसमे पूरब किनारे पर पम्पिंग सेट है मै डाकघर के लिए एक पक्का कमरा अलग से डाकघर मे नियुक्त हो जाने के । माह के अन्दर बनवा दूंगा जो हर तरह से जनता के कार्य के लिए उपर्युक्त होगा ।"

The sketch map of the room which he had then offered was situated in a field and wherein a flour mill and pumping set were <sup>situated</sup> ~~started~~. It appears that in the



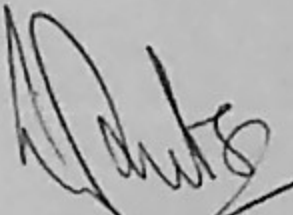


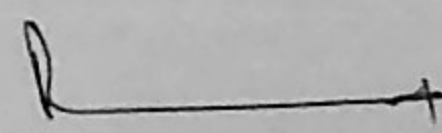
29-

:: 4 ::

circumstances applicant was rightly not found to possess suitable accommodation at the time of appointment. It is also supported by the application dated 22.7.1991 which has been written by him promising to construct a new room after appointment. In these circumstances, in our opinion, the department rightly dropped the idea to initiate further action in the matter to cancel the appointment of respondent no.4. The applicant was informed by a letter dated 28.2.1995 that this dispute has been closed and department does not think it proper to take any further action. In the circumstances, we do not find any good reason to interfere with the appointment of respondent no.4 who has already served on the post for more than ten years.

The application has no merit and is rejected. No order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 19th March, 2002

UV/