

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1109 of 1994

Allahabad this the 09th day of February, 2001

Hon'ble Mr.S. Dayal, Member (A)
Hon'ble Mr.Rafiq Uddin, Member (J)

Arvind Kumar, Son of Sri Ram Nath, Aged about
25 years, R/o Gram & Post Binha, Via-Sahtwar,
Distt. Balia.

Applicant

By Advocates Shri K.C. Sinha
Shri R.C. Sinha

Versus

1. Union of India through Director General,
Department of Postal, New Delhi.
2. Post Master General, Gorakhpur Region,
Gorakhpur.
3. Superintendent of Post Offices, Balia
Division, Balia.
4. Sub Divisional Inspector(P)(Est), Sub
Division, Balia.
5. Sri Santosh Kumar Singh, Shri Yugal Kishore
Singh, R/o Village Bagheji, P/O Sagar Pali,
Distt.Balia.

Respondents

By Advocate Shri R.C. Joshi

O_R_D_E_R (Oral)

By Hon'ble Mr.S. Dayal, Member (A)

This application has been filed for
setting aside the order dated 06.07.94 passed by
respondent no.3 and for issuance of direction to
the respondent no.4 to appoint the applicant on the
post of Contingency Paid(for short C.P.) Chowkidar
with all consequential benefits.

2. The case of the applicant is that the post of C.P. Chowkidar, Sahtwar, District Ballia fell vacant on 01.03.94 on retirement of Shri Kailash Ram. A requisition was sent to the Employment Exchange on 19.5.94 to sponsor 5 suitable candidates with education upto VIIIth class for the post of C.P. Chowkidar, Sub Post Office, Sahtwar, District Balia. The names of 5 candidates including the applicant, were sponsored by the Employment Exchange. The candidates sponsored by the Employment Exchange, were required to send an application alongwith the certificates, which was done by the applicant and he was eligible in all respects. However, before selection could be ~~done~~ and appointment could be made, respondent no.3 issued an order dated 06.07.94 by which respondent no.5-Santosh Kumar Singh was appointed on the post of C.P. Chowkidar, Sahtwar, District Balia. This appears to have been done on the direction of the Post Master General.

3. We have heard the arguments of Shri A. Srivastava proxy counsel to Sri K.C. Sinha, counsel for the applicant and Shri V.V. Mishra proxy counsel to Shri R.C. Joshi, Counsel for the respondents.

4. The claim of the applicant is that the order has been passed by an authority other


than the appointing authority for appointment of respondent no.5. Secondly respondent no.5 did not belong to any village sponsored in the advertisement. Thirdly it is claimed that the respondent no.5 was wrongly shown as a retrenched employee because he had worked only for a short period of 3 months.

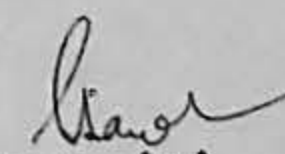
5. Learned counsel for the respondents has contended that the applicant was never a central government employee, therefore, he cannot file this claim petition. Secondly the selection of the applicant was not completed and, therefore, he had no locus standie and could not challenge the appointment of respondent no.5. Lastly, respondent no.5 had challenged the cancellation of his services which commenced from 31.7.92 to 06.11.92, and had filed a claim petition no.1675 of 1992 before the Central Administrative Tribunal.

6. We find that the respondents had decided to fill up the post of C.P. Chowkidar by calling for names from the Employment Exchange. It appears from the facts on record that the post was filled up suddenly by appointment of respondent no.5 who was considered as a retrenched employee by the Post Master General, Gorakhpur. The applicant has annexed the order of appointment of respondent no.5 (annexure A-8), which shows that the respondent no.5 was engaged on

purely temporary basis for 5 hours per day as C.P. Chowkidar w.e.f. 31.7.1992. Therefore, respondent no.5 was a C.P. Chowkidar appointed on purely temporary basis. There is no averment of the respondents that the appointment of respondent no.5 was made after getting names from the Employment Exchange and considering a number of candidates sponsored by the Employment Exchange. Therefore, considering the respondent no.5 as a retrenched employee based on his services for a period of 3 months and one week, does not appear to be proper. We have not been shown any provision for giving preference in service to such a retrenched employee.

7. We, therefore, direct the respondent to consider filling up the post of C.P. Chowkidar, Sahtwar, District Balia, if it still exists, by having a regular selection done for the post and granting an opportunity to the applicant to compete in the same alongwith others. The respondents shall comply with this order within a period of 3 months from the date of communication of this order. The O.A. is disposed of accordingly. No order as to costs.


Member (J)


Member (A)

/M.M./