

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD

Dated: Allahabad this the 23rd December, 1996

CORAM: Hon'ble Mr T.L. Verma, Member (J)

Hon'ble Mr D.S. Baweja, Member (A)

O. A. NO. 590 OF 1995

Kuwar Pal Singh son of Sri Faeh Singh,

resident of Kalwa Post Office, Kauwa,

District Aligarh

APPLICANT

(C/A Sri K.P. Singh)

Versus

1. Director, Postal Services,

Agra Region, Agra

2. Senior Superintendent of Post

Offices, Central Head Post Office,

Aligarh Division, Aligarh

3. Assistant Superintendent, Post

Offices, Centre Post Office, Aligarh

4. Union of India through Secretary,

Ministry of Communication, New Delhi

5. Suresh Chand Gupta son of Sri Jai Ram,

Resident of village and Post Office,

Kalwa, District Aligarh

RESPONDENTS

S.C. Tripathi
(C/R Sri ~~Prakash Chandra~~)

ORDER

Hon'ble Mr. D.S. Baweja, AM

This application has been filed with a prayer to:

(i) quash order dated 14.6.95 appointing respondent No. 5 provisionally on adhoc basis in place of the applicant as Extra Departmental Branch Post Master

(ii) quash oral order dated 15.6.95 terminating the services of the applicant with a prayer

(iii) reinstate the applicant on post with full back wages

2. The applicant has stated the facts of his case as under:-

(E) ^{Sri} One Chirangi Lal, Extra Departmental Branch Post Master, Kalwa, District Aligarh, was put under suspension in the year 1993. The applicant was appointed ^{vice him} as a substitute on 11.10.93 and he was handed over the charge on the same date. Respondent No.2 invited applications from the Employment Exchange for making permanent appointment on the said post. The applicant's name was included in the list of the candidates sent by Employment Exchange. As directed, the applicant submitted the application with all the required documents. Based on the applications received from the Employment Exchange, Sri Suresh Chandra Gupta (Respondent No. 5) was selected and appointed vide order dated 14.6.95 on the post of Extra Departmental Branch Post Master. Subsequent to this appointment, the services of the applicant were terminated through an oral communication on 15.6.95. Being aggrieved, the present application has been filed dated 3.7.95.

3. The applicant has assailed the impugned orders as illegal, arbitrary and without jurisdiction on the ground that it is ^{an} settled law that an adhoc / temporary appointee can be replaced only by a ^{permanent} appointee. In the present case, the applicant has been replaced by another temporary appointee given appointment on a provisional basis.

4. The Respondents ^{have} ~~have~~ opposed the application by filing the counter reply. It is submitted that Sri Chirangi Lal, EDBPM., Kalwa, was put off duty on 22.7.78. The applicant was temporarily engaged vide order dated 24.8.78 on adhoc basis as a purely temporary appointment. Sri Chirangi Lal was ^{the} exonerated of charges and was put back on duty on 20.6.83. However, Sri Chirangi Lal was again involved in a fraud case and was put off duty on 19.8.93. The applicant Sri Kunwar Pal Singh was again engaged on 11.10.93 on the responsibility of Sri Mohan Lal Sharma, Village Postman, Kalwa

as an interim arrangement. For making provisional appointment in place of ^{Shri} Chiranji Lal pending disciplinary proceedings, applications were invited from the Employment Exchange. Three applications were received which included the applicant also. On consideration of the applications as per the extant rules and taking merit into consideration, Sri Suresch Chandra Gupta (Respondent No.5) was selected and provisionally appointed vide order dated 14.6.95. The applicant, however, refused to hand over the charge to him. It was order^{ed} to open a parallel post office which was opened on 27.6.95 and Sri Gupta (Respondent No.5) is working since then as EDBPM. The respondents also submit that the applicant was engaged ~~on~~^{an} interim arrangement till the appointment of regular substitute after observing the formalities as per the departmental rules was done. No appointment letter was issued to the applicant and with the posting of regularly selected substitute as per departmental rules, his services ~~remained~~^{stand} terminated without any written order being given to him. In view of these facts, the respondents submit that the application has no merit and deserves to be dismissed.

5. The applicant has filed the ^{refunder} ~~counter~~ reply rebutting the contentions of the respondents in counter reply and reiterating the grounds advanced in the application.

6. We have heard the learned Counsel of the parties. A careful thought has been also given to the material placed on record.

7. From the rival contentions, the short controversy to be resolved is whether the applicant could be replaced by a regularly selected substitute pending disciplinary proceedings? It is admitted fact that the applicant was engaged as a substitute on 11.10.93 as ^{an} interim arrangement in place of Sri Chiranji Lal, EDBPM, who was put off duty. Respondent No. 5 had been appointed vide impugned order dated 14.6.95 after due process of selection as per rules on provisional

basis pending disciplinary proceedings as is very clear from the appointment letter. The applicant was also considered for appointment on provisional basis along with the respondent No. 5 and other candidates but was not selected. In the light of these facts, we are unable to find any merit in the reliefs prayed for. The main thrust of the arguments of the applicant is that one adhoc / temporary employee cannot be replaced by another adhoc / temporary employee. From the facts detailed above, the argument is not tenable. The applicant was engaged as a substitute as an interim arrangement without any selection, while the respondent No. 5 has been appointed after due process of selection. The appointment is provisional because it is against the vacancy arising due to the incumbant of the post of EDBPM having been put off duty and, pending disciplinary proceedings. Such an appointment though provisional cannot be termed as adhoc / temporary and of the same character and status as that of the applicant's engagement without selection. The applicant, therefore, certainly has not been replaced by another adhoc / temporary appointee. The applicant was also considered in the selection along with respondent No.5 and was not selected. The applicant has also averred that being engaged as an interim arrangement he was to be considered in preference for regular provisional appointment. As such, the applicant cannot claim any right to continue on the post in the face of regularly selected respondent No.5.

8. In this connection, we also refer to the instruction No. 13(iii) in section III (Method of Recruitment) of EDA Conduct and Service Rules which lays down filling up the vacancy on provisional basis arising on account of ED Agent having been put off duty. Annexure 'B' as per which the appointment letter is to be issued clearly brings out that filling of such a vacancy is to be done by the process of

selection. The appointment of the respondent No.5 has rightly beendone as per the laiddown instructions to tezminate the interim arrangement.

9. In consideration of the foregoing deliberations^{he} find no infirmity in the appointment of the respondent No. 5 and termination of the services of the appdlicant. The appdication has thus no merit and the same is dismissed accordingly.
No order as to costs.

[Signature]
MEMBER (A)

[Signature]
MEMBER (J)

RJ