

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 4th day of July 1997.

Original Application no. 885 of 1995.

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

Chandra Bhan Singh, S/o Sri Narain Singh, R/o Village and
Post-Gopalpur Narwal, District Kanpur.

... Applicant.

C/A Shri O.P. Gupta

Versus

1. Union of India through Director General, Posts,
New Delhi.
2. Senior Superintendent of Post Offices, Kanpur.
3. Sub Divisional Inspector, South Sub Division,
Kanpur City.
4. Prem Kumar, S/o Sri R.S. Dwivedi, r/o Village and
Post Behta Gambheer Pur, Kanpur.

... Respondents

C/R Km. Sadhana Srivastava
Sri. K.K. Tripathi

O R D E R

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

This is an application under section 19 of the
Administrative Tribunals Act, 1985.

The application was initially moved with a view

to secure the following reliefs:-

- (i) A direction to the respondents that their order to the applicant working as Extra Departmental Delivery Agent, Gopalpur Narwal, was illegal and void,
- (ii) A direction to the respondents to allow the applicant to continue on the post of E.D.D.A., Gopalpur Narwal till regular selection according to law was made for that post.
- (iii) Award of cost of the application.

Subsequently an additional relief was added with a prayer for setting aside order dated 2.12.95 made by Respondent no. 3.

The applicant has stated in the application that consequent upon selection of the incumbent of the post of E.D.D.A., Gopalpur, Narwal, names were invited for the post of E.D.D.A from the Employment Exchange and five names including that of the applicant were sent by the Employment Exchange. It is claimed by the applicant that he was found to be the most suitable candidate but due to complaint of one Shri Prem Kumar, the issuance of appointment order was delayed on a direction of Respondent no. 2. Respondent no. 3 invited an application from the applicant and gave ^{post} him temporary charge of the ~~of~~ E.D.D.A, Gopalpur, Narwal, with the stipulation that the applicant will have no claim for regular appointment to the post. The claim of the applicant is that he took over charge on 14.06.95 and was

continuing as E.D.D.A, Gopalpur, Narwal. Suddenly on 4.9.95 he was asked by Respondent no. 3 to hand over charge to one Shri Arun Kumar, an outsider, whose name was not sponsored by the Employment Exchange. He claimed that Shri Arun Kumar was not a resident of any village within the delivery jurisdiction of Gopalpur, Narwal Branch Post Office. The applicant added five more paragraphs after his amendment was allowed to state that Shri Prem Kumar, who was offered appointment of the post of E.D.D.A, Gopalpur, Narwal, was not a resident of the village on delivery jurisdiction but resided in village Behta Gambhirpur which was in the delivery jurisdiction of Ampur. The applicant has brought the appointment order of Shri Prem Kumar on record by his amendment application no. 3099 of 1995.

The arguements of Shri O.P. Gupta, learned counsel for the applicant, Km. Sadhana Srivastava, learned counsel for the official respondents and Shri S.C. Pande, briefholder of Shri K.K. Tripathi, learned counsel for the private respondent have been heard. The other pleadings have been taken into account in our judgment in the ensuing paragraphs.

It is clear that after the appointment of Shri Prem Kumar on a regular basis by the official respondents the relief as initially prayed for^{by} the applicant became inadmissible. It is true that order of status quo as obtaining on 8.9.95 was made. Annexure CA-4 to the counter reply of the official respondents shows that Shri Arun Kumar Dwivedi had assumed charge of the post of Extra Departmental Delivery Agent as averred in paragraph 11 of the counter reply of the official respondents. Annexure CA 5 to the

counter reply of the official respondents shows that the applicant prevented the handing over of Dak to Shri Arun Kumar on 9.9.95 and distributed it himself. Annexure CA 2 to the counter reply of Respondent No. 4 Shri Prem Kumar shows that he had taken over charge of the post of E.D.D.A., Gopalpur on 2.12.95. This recital of facts as revealed from the documents annexed to counter replies, ^{Shows} that the applicant has not come clean with facts in claiming on the day the application came up for admission and the applicant obtained stay that he still had charge of the post of E.D.D.A., Gopalpur, Narwal. Even if he did not know that Shri Arun Kumar Dwivedi had assumed charge of the post of E.D.D.A on the day he filed the application, his action of preventing the Branch Post Master from giving the post to Sri Arun Kumar Dwivedi was a clear act of misinterpretation of order of status quo given by the Tribunal at the time of issuing notice. The applicant by his defiance of order of the respondents to hand over charge to Shri Arun Kumar Dwivedi was going against his own undertaking that he would hand over charge if anyone else was appointed to his post (Annexure CA-3). The applicant has shown that he does not deserve any relief by his concealments and misinterpretations.

As far as the relief claimed by the applicant of cancellation of order of appointment of Shri Prem Kumar dated 2.12.95 the respondents have mentioned in their objections to amendment application in the form of counter affidavit filed by Shri M.B. Bajpai, Senior Supdt of Post Offices, on 15.3.96 that it was no longer necessary that the selected candidate should be a permanent resident of villages

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coming under the jurisdiction of a Branch Post Office in view of letter of Ministry of Communication dated 6.12.93 numbered 17-104/93-ED & Trg. The only requirement was that the selected candidate must before his appointment to the post in the village, delivery jurisdiction of the E.D. Post Office. It is stated that Shri Prem Kumar has kept his residence in the house of Shri Babu Lal Pandey who is a permanent resident of Village and Post Gopalpur. It has been clarified that Annexure 8 does not require permanent residence on the part of E.D.B.A and in any case has subsequently been charged in 1993 by letter of Ministry of Communication.

We find that the application has no merits and **dismiss the same.**

There shall be no order as to costs.

*Compared
M*

Sd/-
Member-A

Sd/-
Member-J

/pc/