

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.604/1999

FRIDAY, THIS THE 24TH DAY OF MAY, 2002

HON'BLE MAJ. GEN. K.K. SRIVASTAVA .. MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR .. MEMBER (J)

Jitendra Pratap Singh,
S/o Shri Dal Singh,
R/o Nai Awadi, Barah Khambha,
Agra. ... Applicant

(By Advocate Shri M.K. Upadhyaya)

Versus

1. Union of India, through
the Post Master General,
Agra Region, Agra.
2. S.R.M., X Division,
Jhansi.
3. Sub Record Officer,
R.M.S. 'X' Division,
Agra. ... Respondents

(By Advocate Ms. Sadhna Srivastava)

ORDER - (ORAL)

Hon'ble Maj. Gen. K.K. Srivastava, Member (A):

In this O.A., filed under Section 19 of the
A.T. Act, the applicant has prayed that the direction
~~should~~^{be} be given to the respondents to make selection
for regular appointment on the post of Extra-Departmental
Mailman, Agra Fort and to consider the candidature of the
applicant in the selection for the regular appointment.

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2. The applicant has further prayed that the respondents be restrained to make any ⁱⁿprovisional ⁱⁿappointment on the post which the applicant was holding and also engaged ⁱⁿthe applicant since 12.6.1996 and ⁱⁿalso to quash the selection of the Extra-Departmental Mailman.

3. The facts, in brief, are that the Respondent No.3 invited applications from open market for provisional appointment as Mailman. The applicant, after proper verification was engaged as Extra Departmental Mailman on provisional basis on 2.2.1998. He continued to work on the post. His services were terminated orally without passing any order. The applicant filed representation before Respondent No.2, i.e., the Superintendent, R.M.S. Jhansi that since the applicant has worked continuously for more than 240 days, he may be continued till the regular selection is made. Since no decision has been taken on his representation and the applicant has not been allowed to continue as E.D. Mailman with effect from 12.6.1996, the applicant filed this O.A. which has been contested by the respondents.

4. Shri M.K. Upadhyaya, learned counsel for the applicant submitted that the applicant has been removed by engaging another adhoc employee. The laid down legal position in this regard is that an adhoc cannot be ^{replaced}~~substituted~~ by another adhoc. He also prayed that since the work of the Mailman is still there at Agra Fort, the applicant should be ⁱⁿre-engaged to work as E.D. Mailman.

5. Ms. Sadhna Srivastava, learned counsel for the respondents, resisting the claim of the applicant submitted that against the vacant post of E.D. Mailman lying vacant in Sub-record office of R.M.S. ~~XX~~ division, ~~XX~~ division, Agra, outsiders are being engaged on daily basis to manage the work of the vacant post for a period less than 90 days. Ms. S. Srivastava also submitted that no appointment has been made on regular basis. This process is adopted only to manage the work of E.D. Mailman. The learned counsel also submitted that the process to fill up the vacant posts was initiated by Sub-record Officer, Agra, but, the result of the selection was held up due to the interim order passed by this Tribunal in O.A. No.1307/97 - Alok Kulshrestha Vs. Union of India & Ors.

6. The learned counsel for respondents finally submitted that the applicant was not appointed at all. On provisional basis, he was simply engaged to work as an outsider on daily basis. The action of Sub-record Officer, Agra, to engage outsider to manage the work of E.D. Mailman is correct to manage the Government work. Since the applicant was not provisionally appointed, the applicant cannot claim a right over the post.

7. We have heard counsel for the parties, carefully considered their submissions and have closely perused the records.

8. From the perusal of records, it appears that the applicant was being engaged to work as E.D. Mailman.



The certificate dated 3.5.1999 in which it is mentioned by the Sub Record Officer (in short SRO), that the applicant was continuing to work as substitute E.D. Mailman is filed as Annexure-A1. While the legal position is well settled that a substitute has no right, we would like to observe that as per the law laid down, a substitute cannot be replaced by another substitute. It appears from the perusal of Annexure-A-1-1 that the applicant was working as E.D. Mailman on 11.6.1999, whereas in the subsequent arrangement sheet dated 12.6.1999 annexed along with Annexure-A-1-1, we find that the name of the applicant has been scored out and vice him, the name of Vinod Singh has been written. From the same, it is clear that the applicant has been replaced by another substitute which in our view is not correct and is not in accordance with law.

9. In the facts and circumstances of the case and the aforesaid discussion, the O.A. is finally disposed of with the following directions to the Respondent No.3.

a) If the post of E.D. Mailman has not been filled up by regular selection, the applicant will be re-engaged to work against the post he was working without any entitlement for back wages;

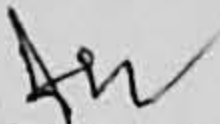
b) Process of regular selection stayed by interim order in O.A. No.1307/1997 be completed and the claim of the applicant for appointment on regular basis shall be

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considered provided the applicant has applied for the same subject to fulfilment of conditions as required under rules.

10. The O.A. stands disposed of. No costs.


MEMBER (J)


MEMBER (A)

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