

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 85 of 1999

Allahabad this the 12th day of January, 2004

Hon'ble Mr.V.K. Majotra, Vice Chairman
Hon'ble Mr.A.K. Bhatnagar, Member(J)

Banney Mian, Son of Late Sri Kalloo Mian, resident
of House No.3, Mau Saraiya, Ashok Nagar, Allahabad.

By Advocate Shri Ashish Srivastava Applicant

Versus

1. Union of India through Post Master General,
Allahabad Region, Allahabad.
2. Senior Superintendant of Post Officers, Allahabad.
3. Sri Om Prakash Nishad, Extra Departmental Mail
Peon, Sub Post Office, Triveni Structurals Limited,
Naini, Allahabad.

By Advocates Bhri Satish Mandhyan,
Shri D.S. Shukla(pvt.respondents) Respondents

O R D E R (Oral)

By Hon'ble Mr.V.K. Majotra, Vice Chairman

The applicant has challenged the order
dated 29.10.1998 (annexure-I) whereby he was relieved
from the charge of Extra Departmental Mail Peon(for
short E.D.M.P.).

2. Learned counsel of the applicant stated that
the applicant was appointed as E.D.M.P. on 20.10.1997
on regular selection and not on temporary basis. He

further stated that although the competent authority did not pass any order of termination of applicant's services, he was relieved of his charge illegally. He was not even issued any show-cause notice in this regard in terms of Rule 6 of E.D.As(Conduct & Service) Rules, 1964.

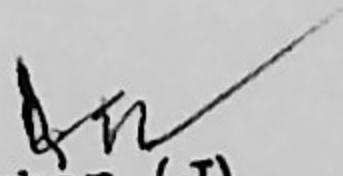
3. On the other hand, learned counsel for the respondents stated that the applicant was never appointed on a regular basis on the post of E.D.M.P. He was only engaged temporarily by the Sub Post Master to manage the work. The appointing authority of the E.D.M.P. is Assistant Superintendent of Post Offices. The applicant's temporary appointment was not made by the Assistant Superintendent of Post Offices. As such, his appointment as E.D.M.P. was nonest and he could have been relieved of his charge without any show cause notice. The vacancy of E.D.M.P. was notified for regular appointment by Assistant Superintendent of Post Offices (South) Sub Division, Allahabad letter dated 23.09.1998. The applicant amongst two other candidates was considered for appointment in the category of O.B.C. In the notification, it had been stated that although the minimum educational qualification is Class VIII, a matriculate will be given preference. The applicant was not selected on the basis of having obtained less marks than the selected candidate. Also the selected candidate, who also belongs to O.B.C. category, was a matriculate. As such, the applicant could not be selected on merit and in terms of the stipulated qualifications.

4. Despite our asking, learned counsel of the

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applicant was not able to produce applicant's appointment letter. Thus, the content^{-ion} of the respondents that applicant had been selected on temporary basis and by an incompetent authority is accepted. Obviously, the applicant had not been selected on a regular basis by a competent authority. Such an appointee could be removed without any notice. However, the respondents were generous in considering applicant when regular recruitment on the post of E.D.M.P. was taken up. However, he could not be selected on merit and in terms of the notification for recruitment.

5. Having regard to the reasons stated and discussion made above, this O.A. must fail being without merit. Dismissed accordingly, however, without any costs.


Member (J)

/M.M./


Vice Chairman