

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 27th day of JULY 2004.

Original Application no. 1021 of 1999.

Hon'ble Mrs. Meera Chhibber, Member J  
Hon'ble Mr. D.R. Tiwari, Member A

Nagendra Kumar Mishra, S/o Sri R.K. Mishra,  
R/o Vill Tulapur, Post Office Sikandra,  
Distt. Allahabad.

... Applicant

By Adv : Sri H.K. Mishra

V E R S U S

1. Union of India through Chief Secretary Post and Telegraph, New Delhi.
2. Senior Supdt. of Post Offices, Allahabad.
3. Up-Mandliya Nirikshak Post Office,  
North Kelbelari Line Govindpur,  
Allahabad.

... Respondents

By Adv : Sri D.S. Shukla

O R D E R

Mrs. Meera Chhibber, JM.

By this OA, the applicant has sought ~~for~~ quashing of the impugned order dated 20.8.1999 (Pg 16). He has further sought <sup>a</sup> ~~for~~ direction to respondents no. 2 & 3 to regularise his services on the post of EDDA/MC at Post Office Kumbhauna.

2. It is submitted by the applicant that he was working on the post of EDDA/MC at Kumbhauna Post Office, Allahabad sincerely and peacefully. But since his services were not regularised he filed WP no. 34501 of 1999 before Hon'ble Allahabad High Court, which was decided vide order dated

*B*

....2/-

17.08.1999 with the direction to the respondents to dispose of his representation (pg 31). The respondents, thereafter, passed the speaking order dated 22.11.1999.

3. In this CA it is submitted by the applicant that the vacancy was advertised for the post of EDDA/MC. <sup>was B</sup> Since the applicant is eligible he also gave his application before respondent no. 2 for the said post. Since the applicant was found to be eligible he was appointed on the said post w.e.f. 01.05.1998. He took charge from Sri Anil Kumar Tiwari for the said post. After some time he was transferred from Kumbhauna Post Office to Kahli Post Office in the month of February 1997. He was paid his arrears of Rs. 8028/- from the Kumbhauna Post Office after the same was sanctioned. The respondents are now trying to disturb his peaceful working therefore, he filed a representation on 16.08.1999 (Ann 7), but till date no reply has been given to him.

4. It is submitted by the applicant that he is entitled to be regularised as he is working on the said post for the long period. He has further submitted that due to enmity, respondent no. 3 has passed order against the applicant and has given charge to the other person known as Lallan Singh who was working on the same post at Karnaipur Post Office in an arbitrary manner without giving any opportunity of hearing to the applicant. The aforesaid order has been passed on 20.08.1999. It is submitted by the applicant that he has much experience of the said post, therefore, he has a better right, as such the OA may be allowed.

5. The respondents on the other hand ~~opposed~~ this OA. They have submitted that the applicant was engaged as a substitute by his father on his own responsibility and the department has not issued any appointment letter to the applicant. Therefore, the applicant is not entitled for regularisation. He ~~has~~ filed WP before Hon'ble High Court bearing No. 34501 of 1999 as well, which was disposed of by giving direction to the respondents to decide the representation of the applicant. Accordingly, the representation of the applicant was considered and rejected by a speaking order on 17.08.1999 which was communicated to the applicant on 22.11.1999. They have further submitted that whenever his father proceeded on leave or was sent on deputation, he gave his son as a substitute to work as EDDA/MC Kumbhauna Branch Office under Sikandara Sub Post Office. The post of EDDA/MC was not vacant as one Sri Lalji Yadav is already working on the post. Therefore, the services of the applicant as a substitute ~~come~~ <sup>have</sup> to an end automatically. They have denied that the applicant was found suitable or was appointed by the department. He was paid wages because he was working on the said post and annexure A2 is the receipt of payment of wages and not security deposit ~~receipt~~ as submitted by the applicant. They have further clarified that the applicant has been relieved by one Sri Lalji Yadav who was surplus EDDA/MC working on the post in question. They have thus submitted that the applicant has ~~no~~ <sup>no</sup> right to claim appointment. The OA ~~is~~, therefore <sup>may</sup> be rejected.

6. We have heard learned counsel for the respondents considered his submission and perused the pleadings as well.

B

7. There is nothing on record to show that the applicant was ever given appointment by the department. The respondents have categorically stated that the applicant was engaged as a substitute by his father when ever he ~~goes~~<sup>weak B</sup> on leave or was sent ~~on~~<sup>regular B</sup> deputation. It is settled law that merely having worked on the post, as a substitute, does not give any right for regularisation. In the instant case, it is submitted by the respondents that the applicant was relieved by regular B Sri Lalji Yadav who was surplus employee as EDDA/MC. In these circumstances, the relief as prayed for by the applicant cannot be granted. Therefore, the OA is dismissed.

8. There shall be no order as to costs.

*Dhuria*  
Member-A

*B*  
Member-J

/pc/