

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 29th day of October, 2004.

QUORUM : HON. MRS. MEERA CHHIBBER, J.M.
HON. MRS. ROLI SRIVASTAVA, A.M.

O.A. No. 1361 of 1999

Hari Shankar Pandey, son of Sri Triyogi Narain Pandey,
R/O Baraunha Garna, Tahsil-Koraon, District Allahabad.

.....

.....Applicant.

Counsel for applicant : Sri A.K. Malviya.

Versus

1. Union of India through Post Master General, U.P., Lucknow.
2. Senior Superintendent of Post Offices, Allahabad Division, Allahabad..... Respondents.

Counsel for respondents : Sri D.S. Shukla.

O R D E R (ORAL)

BY HON. MRS. MEERA CHHIBBER, J.M.

By this O.A. applicant has sought quashing of oral order dated 24.9.1999 whereby the applicant is removed from the post of E.D.R. Badokhar. He has further sought a direction to the respondents not to interfere in the working of the applicant as Branch Post Master and to permit the applicant to work as Branch Post Master, Gadha or E.D.R. Badokhar. He has further sought a direction to the respondents to pay the salary of E.D.R. for the said period.

2. Grievance of the applicant in this case is that he was initially appointed as Branch Post Master on 1.2.1997 and subsequently appointed as E.D.R. on 14.1.1999 but even though the vacancy was still existing, his services were terminated in view of the notification dated 14.10.99. It is submitted that since the applicant was working on the same post, the post ~~could not be filled up by appointing~~ ^{as such would be} any outsider ~~which is~~ violative of Article 311(2) of the Constitution of India.



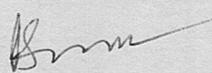
3. Respondents, on the other hand, have opposed this O.A. They have submitted that applicant was engaged as a substitute by the permanent incumbent of the post on his responsibility. He was never appointed by the department, therefore, he has no cause of action against the department. They have explained that on promotion of Sri Triyogi Narain Pandey he was directed for training of departmental postman cadre and was relieved from the post of EDBPM by the Senior Superintendent of Post Office, therefore, the post of EDBPM fell vacant and the applicant was engaged on the said post on his responsibility as his substitute. Similarly, the applicant was engaged as substitute as E.D.R., Badokhar by the officer concerned there, on his own responsibility w.e.f. 24.3.1999 and after six months the said Sri Janeshwar Shukla permanent EDR, Badokhar changed his substitute and engaged one Sri Ram Krishna Shukla on his own responsibility. Therefore, neither the applicant was engaged by the department nor he was removed by the department. The applicant has, therefore, no right to continue on the post. The applicant was provided as a substitute ~~as~~ ^{by} an outgoing EDBPM, Garha but after a temporary EDBPM was employed as EDBPM, Garha, the applicant had to be relieved. Therefore, it is submitted that in making regular selection in accordance with law, ^{Wal B} there is no illegality as such. It ~~is~~ ^{Wal B} open to the applicant to apply for the said post before 12.11.1999 which was the last date for submission of application. They have thus, submitted that there is no merit in the O.A. and the same may be dismissed.

4. The applicant has not filed any rejoinder. We have heard both the counsel and perused the pleadings as well.

5. There is nothing on record that the applicant was ever engaged by the department. On the contrary, Respondent have stated categorically that the applicant was engaged as substitute by the officers on their own responsibility and he had to make way when a regular employee was engaged again the said post. The law is well settled that a substitute ha

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no right to claim appointment over regular selection, The ^{as} procedure is that the post is to be advertised. It was rightly done by the respondents. If the applicant was willing he should have applied for the said post but it seems that he never applied for the post nor he has disputed that he was engaged as a substitute by the officers on their own responsibility. Therefore, we find no merit in the O.A. ~~and~~ The same is accordingly dismissed with no order as to costs.



A.M.



J.M.

Asthana/