

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

...

Original Application No. 523 of 2000

this the 26th day of October, 2004.

HON^{BLE} MRS. MEERA CHHIBBER, MEMBER (J)
HON^{BLE} MRS. ROLI SRIVASTAVA, MEMBER(A)

Roop Singh, aged about 20 years, S/o Sri Sunehri Lal,
R/o Village & post Ahmedpur, Urf Nagla Dhanu, District
Etah.

Applicant.

By Advocate : Sri A.B.L. Srivastava.

Versus.

1. Union of India through the postmaster General,
Agra Region, Agra.
2. The Supdt. post Offices, Etah Division, Etah.
3. The Asstt. Supdt. of post Offices, Etah West
Sub-Division, Etah.

Respondents.

By Advocate : Km. S. Srivastava.

ORDER

PER MRS. MEERA CHHIBBER, MEMBER (J)

By this O.A., applicant has sought the
following relief(s):

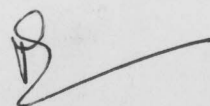
"(i) to quash the impugned order dated 20.3.2000
(Annexure A-1) and order dated 5.4.2000 (Annexure
A-3) and order dated 11.10.2000 (Annexure A-1(4)).

(ii) issue a mandamus or order commanding the
respondents to re-engage the applicant as EDDA.

(iii) issue an order or mandamus of the nature
and direction to complete the process of regular
employment on the post of EDDA on the basis of
comperative merit amongst the candidates of the
community to which the post belonged and priority
admissible in accordance with Rules.


(iv)

(v)"



2. It is submitted by applicant that he belonged to Gadaria Caste (Backward Class). One post became available on 7.9.1999 of EDDA as incumbent Sri Maharaj Singh had attained the age of superannuation, therefore, applicant was asked to take over charge as EDDA from the said Maharaj Singh. He was appointed provisionally on the risk of EDBPM, Ahmedpur Uff Nagla Dhanu vide order dated 1.9.1999 (page 21), within a month thereafter, a notification was issued wherein the post of EDDA was shown as reserved for SC/ST candidates, even though it belonged to Backward classes (page 23). Applicant also sent his application by registered post on 23.10.99, but without considering his application, respondent no.3 arbitrarily and illegally appointed one Sri Pramod Kumar provisionally vide order dated 5.4.2000 by terminating the provisional appointment of the applicant (page 13). It is submitted by applicant that respondents have illegally and arbitrary appointed one after another five persons as EDDA, which is contrary to the settled principles that one adhoc employee cannot be replaced by another adhoc employee. He has, thus, prayed that the provisional appointment made by respondents may be ^{termed} as illegal and quashed the same.

3. Respondents, on the other hand, have submitted that the post of EDDA fell vacant on 7.9.1999 as Sri Maharaj Singh completed the age of 65 years. As Sri Maharaj Singh ^{had B} completed the age of 65 years, ^{since} ^{with} the process of appointment could not be completed for the said post till 7.9.1999, ^{therefore B} the EDBPM, Ahamadpur Nagla Dhanu was directed to engage a suitable person on his responsibility and with clear instructions that the arrangement so made would be temporary and could be terminated at any time without assigning any reason and also the same would not confer any right for regular appointment. Accordingly, the EDBPM, Ahamadpur



engaged the applicant on 7.9.1999 as EDDA. On receipt of the instructions, the Branch postmaster, Ahmadpur Nagla was directed verbally by Asstt. Supdt. of post office, Etah West Sub-Division Etah to terminate the said arrangement, which was confirmed subsequently vide letter dated 28.3.2000. Accordingly, EDBPM, Ahmadpur Nagla Dhanu terminated the arrangement and engaged one Sri Pramod Kumar w.e.f. 22.3.2000. As far as regular appointment is concerned, they have submitted that the regular appointment ^{Call B} ~~to~~ be made ^{July B} in accordance with the rules. They have further submitted that the post was reserved for SC/ST community according to the instructions of the Department of Posts, to give due representation to the SC/ST community. They have, thus, prayed that ^{May B} O.A. be dismissed.

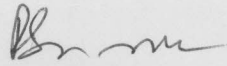
4. Today, when the matter was called-out, counsel for the respondents submitted that during the pendency of the O.A., some new development had taken place inasmuch as the post of EDDA was filled up by giving relaxation in rules to Sri Mohit Kumar on compassionate grounds who has since taken the charge of EDDA on 3.8.2001, a copy of the order has been taken on record.

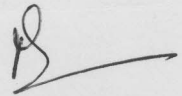
5. We have heard the learned counsel for the parties and perused the pleadings as well.

6. Admittedly, applicant was engaged only provisionally on the responsibility of the EDBPM, therefore, his appointment as EDDA was not regular appointment. It is correct that one provisional appointee cannot be replaced by another provisional appointee, but at this stage when none of these persons who had been provisionally appointed have been impleaded as party in the O.A., no adverse orders can be passed against them. More-over, now that the post of EDDA has already been filled-up on regular basis on

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compassionate grounds by giving relaxation in rules to one Sri Mohit Kumar, the relief as claimed by applicant cannot be given to him. Law is well settled that substitute has no right to claim that he should be continued on the post in-definitely. Had the post not been filled-up in a regular manner, probably some orders could ^{have been} passed, but as on date since the post has already been filled-up by a regular incumbent, no relief can be granted to the applicant. Simply because the post was advertised and applicant had applied for it, it cannot give a right to applicant because Hon'ble Supreme Court has held that even ⁱⁿ selection ^{a person}, who is selected, has no feasible right to claim appointment. Therefore, we are satisfied that there is no merit in the O.A. The same is accordingly dismissed. NO costs.


MEMBER (A)


MEMBER (J)

GIRISH/-