

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

(6)

THIS THE 7TH DAY OF JUNE, 2001

Original Application no.682 of 2000

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Vikram Singh, s/o shri Banwari
Lal, R/o Village and Post Titraun
District Saharanpur.

... Applicant

(By Adv: Shri Avnish tripathi)

Versus

1. Union of India through its Secretary
Department of Post, Ministry of
Communication, Dak Bhawan,
Sansad Marg, new Delhi.
2. Senior Superintendent of Post Offices
Saharanpur Division, Saharanpur.
3. Sub Divisional Inspector of Post
Offices, Central Sub Division
Saharanpur.

... Respondents

(By Adv: Shri Manoj Kumar)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has challenged
the order dated 2.6.2000 by which his engagement as EDDA/MC
Talhiribujurg, district Saharanpur has been terminated.

The facts in short giving rise to this controversy are
that by order dated 16.7.1996 applicant was appointed as EDDA
Titraun as Nathi Ram permanent incumbent of the post was
dismissed from service. In condition no.2 of the appointment
letter it was clearly stipulated that in case Nathi Ram comes
back in service the provisional appointment will be terminated
without notice. The dismissal order passed against Nathi Ram
was set aside and he joined the post on 24.6.1997 and the
applicant was relieved. By order dated 9.9.1997 passed by

Senior Superintendent, Post Offices Sahranpur applicant was sent to another sub division for being absorbed as retrenched EDDA. the order is (Annexure A5). In pursuance of this order applicant was appointed as EDMC/EDDA at post office Talhiri Bujurg, from which he has been terminated by the impugned order. Learned counsel for the applicant has submitted that the appointment of the applicant was on regular basis as he was a retrenched employee and his services could not be terminated by an order of the nature impugned in this OA. Learned counsel for the applicant has placed reliance ^{on} ~~and~~ orders of this Tribunal of

~~different~~
Madras Bench:

- 1) P.Kalaiyarasi Vs.Senior Supdt. of Post offices, 1994(2) ATJ 485
- 2) Saroj Kumar Mohanty Vs. Union of India and Ors ATJ 2001(1) pg-161
- 3) Bharat Chandra Mehra Vs.Secretary Department of Posts and Ors ATJ 2001(1) Pg-2592

Shri Manoj kumar on the other hand submitted that as clear from the order dated 9.9.1997 appointment of the applicant was secured on a mis-information that he was a retrenched employee while the fact was that applicant had worked only for 11 months seven days and he could not be treated as retrenched employee. under Rule 15(2) a provisionally appointed ED Agent could be treated as retrenched if he had rendered not less than three years continuous approved service. In the ~~present~~ ^{present} case the applicant lacked the basic ^{Condition} ~~qualification~~ for appointment and for this reason the appointment was cancelled when the fact that it has been secured on the basis of wrong information ~~it was~~ ^{was} ~~received~~ ^{received} ~~cancelled~~ ^{cancelled}. The learned counsel has submitted that the applicant ~~is~~ ^{is} not entitle for any relief.

We have considered the submissions made by the counsel for the parties. Rule 15(2) which contains provision for provisional appointments of ED Agents ~~which~~ reads as

under:-

"Efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge they had put in not less than three years continuous approved service. In such cases their names should be included in the waiting list of ED Agents discharged from service prescribed in D.G,P & T, letter No.

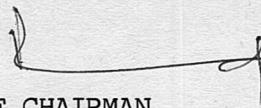
43-4/77-PEN dated 23.2.1979."

The learned counsel for the applicant could not dispute that applicant had not rendered 3 years continuous service as required under the aforesaid rule. In the letter dated 9.9.1997, thus the information given was incorrect. The appointment of the applicant as was based on a mis-information or wrong information the Authority rightly reacted when the true facts were placed before them. ^{in him in the present case on admitted} ~~in fact that applicant had worked for 11 months, appointment was illegal.~~ Learned counsel has placed reliance on the judgements mentioned above. We have considered the judgements. In all the judgments the appointments were based on ~~after~~ regular selection. Thus the judgements are distinguishable on facts. They were not the cases of securing employment on the basis of wrong information. The learned counsel for the applicant then submitted that as the applicant has served for long time respondents may be directed to consider him for appointment at the time the regular appointment is made. We are not giving any direction in this regard. ^{However} if the applicant applies, against any vacant post he shall be considered alongwith others in accordance with law and if law permits benefit of the past experience may be given to the applicant.

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For the reasons stated above, we do not find any merit in this application and it is rejected accordingly. No order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 07.6.2001

Uv/