

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 18th day of MAY 2005.

Original Application No. 729 of 2000.

Hon'ble Mr. A.K. Bhatnagar, Member (J)
Hon'ble Mr. D.R. Tiwari, Member (A)

Pati Ram, S/o Sri C. Lal,
R/o Vill Dharampur Pilria,
Post Chaurasia, Tahsil Jalalabad,
Distt: Shahjahanpur.

...Applicant

By Adv : Sri M.K. Updhayaya

V E R S U S

1. Union of India through the Secretary,
Ministry of Post and Telegraph,
NEW DELHI.
2. Superintendent of Post Offices,
Head Post Office,
SHAHJAHANPUR.
3. Sub-Post Master, Allahaganj,
Tahsil Jalalabad,
Distt: Shahjahanpur.
4. Dalloo, S.o Chadda,
R/o Vill Koyala, P.O. Chaurasia,
Tahsil Jalalabad,
Distt: Shahjahanpur.

...Respondents

By Adv : Sri S.C. Mishra

O R D E R

By A.K. Bhatnagar, JM

By this OA, filed under Section 19 of the A.T. Act, 1985, the applicant has sought the following reliefs:

"i. To issue an order setting aside the impugned order dated 4.6.199 of the Respondent No. 2 and also order dated 16.6.199 of the Respondent No. 2, copy of



which has not been supplied to the petitioner and he could not obtain it inspite of best efforts.

ii. To issue an order direction to the Respondent No. 1 and 2 to permit the petitioner to take Charge of the office in question and to work on the said post."

2. The brief facts giving rise to this OA, as per applicant, are that he applied for the post of EDBPM, Branch Post Office, Village Dharampur Pilrai Post Chaurasia, Tehsil Jalalabad Distt: Shahajahanpur in the existing vacancy. The applicant was appointed vide letter No. A/47/Ch-III dated 21.5.1999 on the said post as he was fulfilling all the requisite qualifications (Annexure 6). In pursuance to the appointment letter he tried to take charge on the said post from one Sri Roshan Lal, who was holding the charge of the said post of EDBPM, but due to the conspiracy of the subordinate Postal Authorities and respondent No. 4 he was refused to give the charge of the said post. He brought this into the notice to the respondent but instead of listening the complaint of the applicant Respondent No. 2 passed the impugned order dated 4.2.1999 canceling the appointment of the applicant without assigning any reason (Ann A1). The applicant also came to know that the respondent No. 2 has issued new appointment letter in favour of respondent No. 4 on 16.6.1999. Copy of which was not available to the applicant ~~was~~ so he could not file the same along with the OA. When no action was

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taken by the respondents in giving appointment to the applicant he filed this OA.

3. Pressing on the grounds given in para 5 of the OA the learned counsel for the applicant submitted that the applicant was appointed as per Rules vide order dated 21.5.1999, so it was the duty of the Authority Concerned to implement the same by allowing him to take charge on the said post. Therefore, the action of the respondents is unjustified. The order passed by the respondents dated 4.6.1999 canceling his appointment is illegal and void. Consequently, the order passed on 16.6.1999 appointing respondent No. 4 on the said post is also illegal and void. Learned counsel ^{✓ have been} finally submitted that the applicant should be given appointment from the date of his appointment i.e. 21.5.1999.

4. On the other hand the learned counsel for the respondents filed counter affidavit. Inviting our attention to para 3 of the counter affidavit, learned counsel for the respondents submitted that the order of appointment of the applicant dated 21.5.1999 was subsequently cancelled on 4.6.1999 due to adverse Police verification report before taking charge on the post of EDBPM, Chaurasi and the second meritorious candidate was considered for the post. In the meanwhile on receiving a favorable Police verification report the applicant was ordered to take charge on the said post w.e.f. 31.7.1999 and

since then he is working on the said post. Therefore, the applicant has got no case and the OA is liable to be dismissed as having become infructuous.

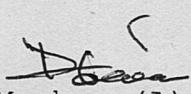
5. We have heard the learned counsel for the parties and perused the records before us. There is no dispute that the applicant was appointed on the post of EDBPM, Chaurasia on 21.5.1999 (Annexure A7) by which he was appointed provisionally on the said post subject to the satisfactory police verification report. We have also gone through annexure A1 filed by the respondents Alongwith Misc. Application filed on 29.9.2000. This is a report of Supdt. Police Sahajahanpur dated 1.6.1999 in which it is mentioned that "परिवार की आम शोहरत अच्छी नहीं है । इसके लिए कोई राजकीय कार्य सौपना जनहित में नहीं होगा।" We have also perused report of LIU Shajahanpur dated 15.7.1999 indicating no objectionable entries regarding criminal history. We have also seen annexure A 3 appointment letter dated 26.7.1999 which has been issued after the receipt of favorable Police verification of the applicant on 15.7.1999. It appears that the appointment order of the applicant dated 21.5.1999 was cancelled on 4.6.1999 due to adverse Police Verification report which states that the general reputation of the family is not good therefore, it will not be in the public interest to grant any Govt. assignment and on receiving the report of LIU Shajahanpur he was again given the appointment on the said post vide

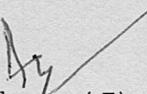
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order dated 26.7.1999 (Annexure A3) of the counter affidavit filed on 29.9.2000.

6. Under the facts and circumstances, we find no illegality in appointing the applicant on 26.7.1999 after receiving a clear report of LIU Shajahanpur and we find no illegality in reappointing the applicant after being satisfied from the report of LIU Shajahanpur. As admittedly the applicant has been working on the post in the respondents establishment since 31.7.1999 till date, so no judicial interference is needed as the applicant has already been granted appointment rendering the impugned order dated 4.6.1999 as infructuous. Moreover, we find no such order dated 16.6.1999 appointing respondent No. 4 on the post claimed by the applicant. So there is no question for quashment of a non existing order. Therefore, the reliefs claimed for setting aside the impugned orders hardly survive. Accordingly, the OA is dismissed as having no merit.

7. There shall be no order as to costs.


Member (A)


Member (J)

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