

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO.766 OF 2000.

ALLAHABAD THIS THE 29th TH DAY OF August 2007

Hon'ble Mr. Ashok S. Karamadi, J.M
Hon'ble Mr. P.K. Chatterji, A.M

Sunendra Singh son of Shri Balvir Singh R/o Nagla Bel P.O. Nagla Bel, District Agra.

.....Applicant

(By Advocate: Sri R.N Sharma)

Versus.

1. Union of India through its Secretary, Ministry of Communication, New Delhi.
2. The Post Master General, Agra Region, Agra.
3. Senior Superintendent Of Post Offices, Agra Division Agra.
4. Sub Divisional Inspector (Postal), East Sub Division Agra.
5. Branch Post Master Post Office Nagla Bel, Tehsil Etmadpur, District Agra.
6. Branch Post Master, Post Office Mukhwarrr Tehsil Etmadpur, District Agra.

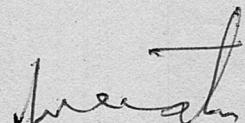
.....Respondents

(By Advocates: Sri S. Singh/Shri A. Dwivedi)

O R D E R

By Mr. P.K. Chatterji, A.M

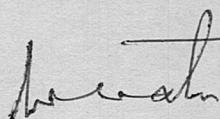
The applicant worked as Extra Departmental Delivery Agent under respondent NO.4 from 8.12.1998 to 31.3.2000. According to the original application, he was first selected for the vacant post of E.D.D.A in the Branch Post Office Nagla Bel. Thereafter, respondent NO.4 directed the applicant to join as E.D.D.A. in Branch Post Office Mukhwar on 21.12.1999. But all on a sudden, on the basis of oral order of respondent NO.4 the Branch Post Master, Mukhwar (respondent NO.6) removed him from the job of E.D.D.A



2. The applicant stated in the O.A. that in 1998 a vacancy on the post of E.D.D.A at Nagla Bel occurred. Respondent NO.4, with a view to filling that post, directed the concerned Employment Exchange Officer, Agra to forward the names of candidates, who were eligible according to the conditions of appointment. The Employment Exchange furnished some names for consideration, which included the names of the applicant. The applicant received a call letter dated 20.10.98 from respondent NO. 4 by registered post alongwith an application form for filling it and returning with testimonial of academic qualification etc. On the basis of the application, which he submitted, the applicant says, respondent NO.4 selected him and appointed him to the post of E.D.D.A Nagla Bel. On the basis of further instruction of respondent NO.4, the applicant joined the post on 8.12.1998. Thereafter, he continued to work him to the same post until 10.12.1999, when he was directed by the same respondent NO. 4 to join in the post of E.D.D.A. at Branch Post Office Mukhwar. The applicant carried out the instructions and joined the same post and continued to work there as E.D.D.A. However, on 31.3.2000, respondent NO. 4 directed respondent NO.6 orally not to continue applicant on the post of E.D.D.A and in pursuance of this oral direction, respondent NO.6 terminated his appointment.

3. Being aggrieved by this alleged illegal and arbitrary order, the applicant has approached the Tribunal praying for the direction upon the respondents to allow the applicant to continue on the post of E.D.D.A and to regularize the services of the applicant on the same post after quashing the oral order dated 31.3.2000. The grounds cited by the applicant are as follows:-

- (a) After giving him appointment to the vacant post of E.D.D.A., the respondents could not terminate his job by verbal order.
- (b) The applicant was selected and appointed to the post of E.D.D.A by the due process of selection, therefore, it



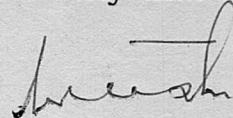
was not open to the respondents to terminate his services.

- (c) The impugned oral order was issued without any show cause notice.
- (d) The post of E.D.D.A was lying vacant and, therefore, the action of the respondent NO.4 to terminate the job of duly selected person to the post, was arbitrary and liable to be set aside.

4. The respondents have refuted the allegations of the applicant by making the following submissions:-

- (a) The applicant was never appointed to the post of E.D.D.A at Nagla Bel. No appointment letter has been produced by the applicant in support of his claim.
- (b) On the other hand, the applicant was made to work as E.D.D.A. purely on a temporary arrangement by the father of the applicant, who was then Mail Overseer, Agra. The fact that his engagement was purely temporary, would be borne out by the fact that on 21.12.1999 he was shifted to work at Mukhwar Branch Post Office. If he was the regular appointee to the post of E.D.D.A Nagla Bel, such transfer would not have been permissible.
- (c) The applicant himself has admitted in the relief clause, his engagement was not on a regular basis. That is the reason why he was prayed for direction to the Tribunal to regularize the services of the applicant.
- (d) Mere existence of the vacancy does not confer upon the applicant any right to the appointment to the post.

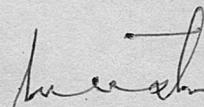
5. In the course of argument, a specific question was put before the learned counsel for the respondents whether they started the process of recruitment as the letter to the concerned Employment Exchange Officer would indicate. In reply the learned counsel stated that there was not dispute regarding the fact that a notice was issued to the Employment Officer to furnish name of eligible candidate. He also does not deny that



call letter was issued to the candidates including the applicant. However, he says that thereafter the process did not culminate in giving appointment to any particular candidate. No particular candidate was selected and appointed to the post. On the other hand, the applicant was directed to discharge the function of the E.D.D.A Nagla Bel until further orders. From 10.12.99 he was again directed to work as E.D.D.A Mukhwar. However, it was realized by the respondents that such stop gap arrangement should not continue for long and, therefore, the arrangement was terminated. The learned counsel for the respondents, however, strongly denied that this violated any legal right of the applicant.

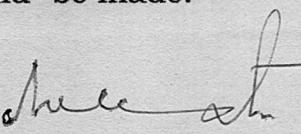
6. It is rather intriguing that having started the process of selection, the respondents gave it up way. During the argument, the learned counsel or the respondents produced a letter from respondent NO.4 upon the Balvir Singh, Mail Overseer, the father of the applicant, which was a direction upon the Mail Overseer not to go ahead with the process of selection and instead engage the applicant temporarily as E.D.D.A Nagla Bel. The learned counsel for the respondents, however, was not able to satisfactorily explain whether the respondent NO.4 had the authority to issue such a letter. The matter, however, is suspicious. A nexus between respondent NO.4 and Balvir Singh, the father of the applicant could not be ruled out. It is noteworthy here that the Mail Overseer is the immediate subordinate of respondent NO.4. It is not unlikely that the plan to terminate the process of selection half way was made in collusion between respondent NO.4 and Shri Balvir Singh, the Mail Overseer, so that the son of the latter could benefit from this by way of a stop gap arrangement. We are not able to make out what would be another rational explanation for suddenly terminating the process of selection, which was going on according to due process.

7. On the basis of the facts and record placed by the applicant, we are, however, not convinced that he was duly



selected and appointed on the post of E.D.D.A. There is no doubt ,he worked on the post of E.D.D.A in two Branch Offices from 8.12.1998 to 31.3.2000. However, such temporary arrangement dehors the rules, could not confer any right to the post. During the argument, the learned counsel for the applicant cited from the judgment of the **Hon'ble High Court of Allahabad W.P. NO.13799 of 1998 Sanjeev Kumar and others Vs. State of U.P.** Citing para 7 of the judgment, the learned counsel pleaded that it was not open to the Competent Authority to appoint on temporary basis someone, who was duly selected for appointment on substantive post. We have, however, perused the decision of the Hon'ble High Court. We are of the view that the decision would not apply in this case, for the reason that the applicant was not duly selected for appointment on the post of E.D.D.A Nagla Bel.

8. The abovementioned factual matrix of the case and the records put forth by both the parties are a pointer to the inevitable conclusion that the applicant does not have justifiable right to the post of E.D.D.A. He was not duly selected and appointed to the post. He worked in the post for about 1 and half year on a temporary arrangement, in which a complicity between the applicant's father and immediate superior officer could not entirely ^{be} ruled out. For this reason, we do not find any merit in this O.A. which is dismissed. We, however, advise respondent NO.2 to make a probe into the role played by the then Inspector of Sub Post Office East Sub Division Agra in suddenly directing the then Mail Overseer to terminate the on going process of selection for the post of E.D.D.A so that an adhoc arrangement in favour of the applicant could be made.



Member-A



Member-J

Manish/-