

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 06th day of March, 2003.

Original Application No. 1284 of 2002.

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.
Hon'ble Mr. A.K. Bhatnagar, Member- J.

Surya Mani Tripathi S/o Gaya Dutt Mani Tripathi
R/o Vill. and Post- Shahpur, Distt. Kaushambi.

.....Applicant

Counsel for the applicant :- Sri Avanish Tripathi

V E R S U S

1. Union of India through its Secretary,
M/o Communication, Dak Bhawan, Sansad Marg,
New Delhi.
2. Post Master General, Allahabad Region,
Allahabad.
3. Senior Superintendent of Post Offices,
Allahabad Division, Allahabad.
4. Sub Divisional Inspector of Post Offices,
Bharwari, Distt. Allahabad.

.....Respondents

Counsel for the respondents :- Sri G.R. Gupta

O R D E R (Oral)

By Hon'ble Maj. Gen. K.K. Srivastava, Member- A.

In this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has sought for quashing the impugned notification dated 28.09.2000 and also the order dated 03.01.2002 by which the engagement of the applicant on the post of E.D.B.P.M, Shahpur was terminated substituting respondent No. 4. The applicant has prayed for direction to the respondent No. 3 to give him regular appointment on the post of E.D.B.P.M, Shahpur being working ^{h.h} E.D

Agent in the said post office.

2. The facts, in short, are that on account of retirement of the regular incumbent the post of E.D.B.P.M, Shahpur ~~fallen~~ ^l vacant on 08.01.2000. The applicant was initially appointed as E.D.D.A, Shahpur vide order dt. 11.08.1982. When the post of E.D.B.P.M, Shahpur ~~was~~ ^l ~~fallen~~ ^l vacant on 08.01.2000, the applicant was directed by respondent No. 4 to take over the charge of EDBPM and the applicant assumed the charge of E.D.B.P.M on 10.01.2000 on provisional basis. The applicant on 20.01.2002 filed an application alongwith required documents for regular appointment as E.D.B.P.M, Shahpur but nothing has been done by the respondents. The applicant filed representation on 14.07.2000 followed by reminder dated 22.08.2000. However, the respondents instead of regularising the services of the applicant on the post of E.D.B.P.M, Shahpur issued a notification on 28.09.2000. The provisional engagement of the applicant as E.D.B.P.M, Shahpur was terminated on 03.01.2002. The applicant filed O.A No. 1522/01 challenging the said notification dated 28.09.2000. However, the O.A was withdrawn with prayer that the applicant be given liberty to file a fresh O.A. The O.A No. 1522/01 was dismissed as withdrawn by order dated 17.09.2002 and the applicant was given liberty to file a fresh O.A, if he so desires. The applicant has filed this O.A.

3. Sri A. Tripathi, learned counsel for the applicant submitted that being working as ~~E.D.B.P.M~~ ^{ED Agent} in the same branch post office the applicant is entitled for regular appointment as E.D.B.P.M, Shahpur in view of the D.G ^{by} ~~Post~~ instructions dated 12.09.1988 (Annexure A- 9). The learned counsel has placed reliance on the judgment of this Tribunal dated 23.12.1996 passed in O.A No. 347/95 with other connected O.A No. 141/95.

4. Opposing the claim of the applicant Sri G.R. Gupta, learned counsel for the respondents submitted that the period of applicant's working as E.D.B.P.M does not entitle him for regular appointment as E.D.B.P.M. The selection process is going on. The applicant should apply for the same and his case shall be considered as per rules keeping in view all the aspects including his ad hoc services as E.D.B.P.M.

5. We have heard learned counsel for the parties, considered their submissions and perused records.

6. The short question to be decided in this case is whether the applicant is entitled for appointment as E.D.B.P.M without going through the process of selection. It is an admitted fact that the applicant is working as E.D Runner in the same branch post office. For convenience sake we would like to quote the D.G (Posts) letter No. 43-27/85-Pen., (EDC & Trg.) dated 12.09.1988 which is reproduced below :-

"(i) When an ED post falls vacant in the same office or in any office in the same place and if one of the existing EDAs prefers to work against that post, he may be allowed to be appointed against that vacant post without coming through the Employment Exchange provided he is suitable for the other post and fulfills all the required conditions. "

7. In view of the D.G (Posts) instructions quoted above, we find force in the claim of the applicant for the post of E.D.B.P.M, Shahpur.

8. We also consider it appropriate at this point to quote the order of this Tribunal dated 23.12.1996 passed in O.A No. 347/95 and other connected case. The order reads as under :-

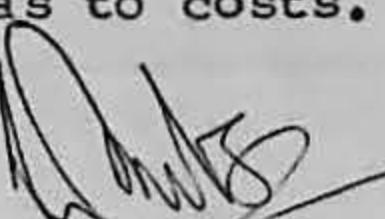
"In the light of findings above there is no merit in the reliefs prayed for in O.A No. 347/95. The application deserves to be dismissed and is accordingly dismissed. We allow the O.A No. 141/95 with direction that the applicant be allowed to appoint as E.D.B.P.M as per extant rules/as per letter dated 12.09.1988. The stay granted vide order dated 18.04.1995 in O.A No. 347/95 is also vacated. No costs."

We are in respectful agreement with the decesion of this Tribunal quoted above.

9. For the reasons stated above the O.A is allowed. The notification Dt. 28.09.2000 is quashed. The entire selection process done by the respondents so far will stand ^{invalid} null and void. Respondent No. 3 is directed to appoint the applicant on the post of E.D.B.P.M, Shahpur as per rules within a month from the date of communication of this order.

10. There will be no order as to costs.


Member- J.


Member- A.

/Anand/