

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 16th day of July, 2003.

Original Application No. 1463 of 2002.

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

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

Raghvendra Tripathi S/o Sri Anirudh Prasad Tripathi
R/o Vill. Donoro, P.O. Basia Khore, Gorakhpur.

.....Applicant

Counsel for the applicant :- Sri K.C. Sinha
Sri Ashish Srivastava

V E R S U S

1. Union of India through the Secretary,
M/o Communication, D/O Post,
Dak Bhawan, New Delhi.
2. Post Master General, Gorakhpur Region,
Gorakhpur.
3. Director, Postal Services, Gorakhpur.
4. Senior Superintendent Post Offices,
Gorakhpur Division, Gorakhpur.
5. Sub-Divisional Inspector, Uruwa Bazar,
Gorakhpur.


.....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.

By this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 25.11.2002 by which he has been removed treating him as out-sider. The applicant has prayed that the order dated 25.11.2002 be quashed and the respondents be directed to permit the applicant to continue on the post of Gramin Dak Sevak, Mail Deliverer/Mail Carrier (G.D.S, M.D/M.C), Mahui



Bujurg (Uruwa Bazar), Gorakhpur.


2. The grievance of the applicant is that by order dated 07.04.2002 (Annexure A-6), the applicant was provisionally appointed as G.D.S, M.D/M.C, Mahui Bujurg, Uruwa Bazar with clear stipulation that his appointment was for a period of 90 days or till regular appointment was made, which-ever was earlier. However, the applicant was continued even after the expiry of the period of 90 days on provisional basis till the impugned order dated 25.11.2002 was issued.

3. The learned counsel for the applicant submitted that the action of the respondents is arbitrary and illegal as the provisional appointment cannot be terminated unless regularly selected candidate is available. The learned counsel for the applicant further submitted that the work is there which is clear from the perusal of para 2 of the impugned order dated 25.11.2002. By the impugned order the Branch Post Master has been directed to look-after the work of G.D.S, M.D/M.C.

4. Resisting the claim of the applicant, learned counsel for the respondents submitted that the applicant has been working as out-sider and as per the direction of the D.G (Posts) dated 21.10.2002, no out-sider could be engaged on any post, therefore, the action of the respondents is correct and in accordance with the instructions laid-down on the subject by the D.G (Posts).

5. We have heard counsel for the parties, considered their submission, and perused the record.

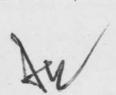
6. The respondent's case is that the applicant is an outsider. We do not agree with the contention of the respondents. The appointment letter dated 07.04.2002 has been filed by the applicant as Annexure A- 6. The perusal

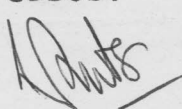


of the same ⁱⁿ ~~list~~ ^{tenure} no doubt in our mind that the applicant was given provisional appointment for a period of 90 days or till the regular appointment was made, whichever is earlier. Therefore, the appointment of the applicant has to be treated as provisional appointment. If the respondents had dis-engaged the applicant after completion of 90 days, the applicant would have had no claim but in the instant case, the applicant has been continued even after the expiry of 90 days. Not only this, we also find from the perusal of Annexure A-8 which is letter dated 29.11.2002, sent by Senior Superintendent Of Post Offices to Post Master General, Gorakhpur that the case of the applicant has been recommended for regularisation on the post in question. We have also perused the instructions of the D.G (Posts) dated 21.10.2002 ⁱⁿ addressed to all C.P.M.Gs and others in which in para 10 ⁱⁿ ^{bench} it has clearly mentioned that in case the local arrangement is to be continued beyond 90 days for unavoidable reasons, the sanction of the superior authority must be obtained. In the present case, no such action has been taken by the respondents. Besides the appointment letter date 07.04.2002 (Annexure A- 6) does not ⁱⁿ describe the applicant as a person engaged for local arrangement. Therefore, the impugned order dated 25.11.2002 is de hors the rules and cannot stand in the eyes of law.

7. For the aforesaid reasons, the O.A is allowed, The impugned order dated 25.11.2002 is quashed. The respondent Nos. 4 and 5 are directed to re-engage the applicant as G.D.S, M.D/M.C, Mahui Bujurg, Uruwa Bazar within one week from the date of communication of this order. He shall not be removed till a regularly selected candidate is available for the post. ^{also} The applicant shall/not be entitled for any back wages.

There shall be no order as to costs.


Member- J.


Member- A.

/Anand/