

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application No.564/2002

this the day of 17th, May 2002.

HON. M<sup>E</sup>J. GEN. K.K. SRIVASTAVA, A.M.

HON. MR. A.K. BHATNAGAR, MEMBER (J)

Amar Nath Singh, S/o Sri Prakesh Singh,  
R/o Village Jhanga, Vaya Hata, District,  
Kushinagar.

... Applicant.

By Advocate:- Smt Anita Tripathi.

Versus.

Union of India, through the Secretary,  
Ministry of Communication, Department,  
of Post, New Delhi.

2. Post Master Ge-neral , Gorakhpur Division,  
Gorakhpur.

3. Sr. Supdt. of Post Office, Deoria Division,  
Deoria.

4. Shri Swami Nath Prajapati, Sub-Divisional.  
Inspector, (Western Sub Division) Postal  
Department, Deoria.

5. Jai Prakesh Singh S/o Shri Rameshwas Singh,  
R/o Village Pipra Sheetal alias Bakrabad,  
Vaya Post Office Jhanga, District Kushinagar.

... Respondents.

By Advocate:- Shri R.K. Tewari.

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O R D E R (oral)

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

In this O.A, the applicant has challenged the order dated 11.04.2002 passed by the respondent No. 2 and has prayed that the same be quashed and direction issued to the respondents not to interfere with the functioning of the applicant as E.D.B.P.M, Jhangar, Hata Distt. Kushinagar (Padrauna).

2. The facts, in short, giving rise to this O.A are that the applicant was appointed as E.D.B.P.M, Jhangar after due process of selection vide order of respondent No. 3 dated 26.09.1994. Since then he has been working to the entire satisfaction of the administration as well as public. The appointment of the applicant was challenged by the respondent No. 5 Sri J.P. Singh through the O.A No. 100/1995 which has been decided by this Tribunal by order dated 15.01.2002. In compliance of the order of this Tribunal dated 15.01.2002, the respondent No. 2 decided the representation of the respondent No. 5 and found the claim of the respondent No.5 as justified. Consequently, he has passed the impugned order dated 11.04.2002 which has been challenged.

3. Smt. Anita Tripathi, the learned counsel for the applicant submitted that the impugned order of the P.M.G, Gorakhpur dated 11.04.2002 is not correct because the P.M.G has not taken into consideration that respondent No. 5 at the time of selection had not submitted the required certificates regarding accommodation at Jhangar. The fact that during the inspection by the S.D.I before appointment it was found that the respondent No. 5 is not a resident of the same village where the post office was to run, has also been ignored. The learned counsel for the applicant submitted that respondent No. 5 had also not enclosed the

the domicile certificate. Therefore, he was rightly declared unfit for appointment on the said post. The learned counsel for the applicant submitted the above plea was taken by the respondents in O.A No. 100/1995 and since the position has not changed, P.M.G, Gorakhpur cannot ignore these facts.

4. The second submission made by the learned counsel for the applicant is that the applicant was appointed on regular basis after it was ascertained that he fulfilled all the conditions for the said post. Having worked for about eight years, it is not correct on the part of the respondents to terminate the services of the applicant now.

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5. Sri R.K. Tewari, learned counsel for the respondents while resisting the claim of the applicant submitted that the entire selection process of 1994 has been examined in detail by the P.M.G, Gorakhpur, while deciding the representation of the respondent No. 5 as per direction of the Tribunal <sup>by</sup> order dated 15.01.2002 in O.A No. 100/1995. Since the respondent No. 2 found that the claim of the respondent No. 5 is genuine, the impugned order dated 11.04.2002 has been issued.

6. We have heard the learned counsel for the parties and have perused records.

7. Admittedly the applicant was selected as E.D.B.P.M, Jhanga after due process of selection. If there was any irregularity on the part of the respondents in appointing the applicant as E.D.B.P.M, Jhanga, as has been found by the respondent No. 2, the applicant cannot be held responsible for that. In fact it was incumbent upon the respondents to have seen and examined all the documents of

the candidates who had applied for the said post and only then the selection should have been made in accordance with rules on the subject. Since the applicant was preferred vis-a-vis other candidates for appointment as E.D.B.P.M, Jhanga, we are of the view that having worked for about 8 years as E.D.B.P.M, Jhanga, the applicant cannot be thrown out from service at this belated stage. It is the moral duty of the respondents to see that the applicant is not put to avoidable hardship. In this connection we would like to reproduce para 13 (2) of EDA (C&S) Rules, 1964 which reads as under :-

"2. Efforts should be made to give alternative employment to ED Agent 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' 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 23.02.1979."

As per this rule even provisionally appointed ED Agent is entitled to be included in the waiting list of ED Agents discharged from service after putting not less than three years service. In the instant case the applicant was regularly selected and has put in much more than three years service i.e. approximately seven and a half years service. Therefore, his case deserves special consideration on priority basis. While we would not like to intervene with the impugned order dated 11.04.2002 of the PMG, Gorakhpur, We would certainly like to protect the interest of the applicant. In view of the above, the OA is finally disposed of with direction to the respondent No.2 to ensure that the applicant is absorbed against any existing vacancy of ED in the division within three months. In case there is no vacancy at present in the division, the applicant will be offered the first vacancy falling in the postal Division.