

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 54 of 2002

Dated: This the 26th day of August, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

HON'BLE MR. S.C. CHAUBE, MEMBER-A
Vinod Kumar Singh, aged about 28 years,
S/o Shri Babban Singh, R/o Village & Post -
Siswar Kalan, District - Ballia.

....Applicant.

By Advocate: Shri Rakesh Verma

V E R S U S

1. Union of India through the Secretary,
Ministry of Communication, New Delhi.
2. The Assistant Superintendent of Post
Offices, Rasara Sub Division, Rasara,
District - Ballia.

...Respondents.

By Advocate: S/Shri Rajeev Sharma, Saumitra Singh.

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M.

By this O.A. applicant has sought the following
relief(s):-

(i) To issue a writ, order or direction in the
nature of Mandamus directing the petitioner
to continue on the post of Extra Departmental
Delivery Agent/EDMC, Sarayan(Garwar) as substi-
tute till a person regularly selected joinst
the post.

(ii) To issue a writ, order or direction in the

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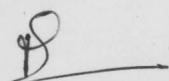
nature of Mandamus directing the respondent No.2 to give preference and weightage of past experience in regular selection to the petitioner on the post in question as per the verdict given by the Full Bench in G.S. ParvathiVs. Union of India & Others reported in CAT Full Bench Judgment 1991-94(Volume-III) 391 and to appoint him on the post in question in case he is found fit after giving such preference and weightage.

(ii) To issue any other suitable writ, order or direction in the facts and circumstances of the case which this Tribunal may deem fit and proper.

(iii) To award cost of the petition."

2. The brief facts as stated by the applicant are that he was engaged as a Substitute vide order dated 06.03.2000 on the risk and responsibility of his father as EDDA/PO Sarayan (Garwar)(page 15). On 11.7.2000 respondents issued a notification for regular selection for the said post(page 16) but same was challenged by the applicant by filing O.A.1096/2000 on the ground that the bar of near relative is violative of Article 14 of the Constitution and the respondents could not have insisted ^{on &} ~~not~~ adequate means of livelihood prescribed for ^{because of} EDSPM/EDBPM, income and ownership is not ~~not~~ applicable ~~for~~ ^{for} EDDA. Ultimately, the O.A. was allowed on 21.11.2001 whereby notification dated 11.7.2000 was held to be not valid. Accordingly it was set aside. The respondents were directed to issue fresh notification to fill up the post of E.D.D.A. on regular basis.

3. Thereafter applicant filed the present O.A. on 21.01.2002 on the ground that inspite of the judgment given in first O.A., respondents are intending to appoint some other person in place of applicant without issuing any notification for fresh selection. On the basis of averments made by the applicant this Tribunal had issued an order on 21.5.2002 holding therein that applicant shall not be replaced by a fresh substitute from open market on a ground other than unsatisfactory performance or withdrawal of responsibility by the regular incumbent. This interim order has continued till date.

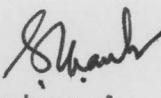


4. Respondents, in their Counter Affidavit, have stated that according to the instructions dated 08.11.2001 issued by the Chief Post Master General, U.P.Circle Lucknow, ~~that~~ no outsider can be engaged on any vacant post and the work of the same post may be carried out by posting the Gramin Dak Sevak. Therefore, the petitioner cannot be allowed to work on the post of EDDA/MC. They have further submitted that no substitute should be allowed to continue for more than three months; hence petitioner cannot be permitted to continue on the post. They have, thus, submitted that in view of ^{above B} instructions the arrangement of substitute has to be dis-continued so that some Gramin Dak Sevak may be engaged to work on the said post. They have also stated that they have been instructed to issue a fresh notification for selection of the post in question for which the petitioner may also apply. It is stated by the respondents that steps are being taken to issue fresh notification inviting application for the said post. It is, however, wrong to say that respondents after disengaging the applicant are going to engage a person of their choice. They have, thus, prayed that since a substitute has no right, this D.A. may be dismissed.

5. Today when the matter came up for hearing, none for the parties were aware whether ~~fresh~~ notification had been issued for the post in question or not. Therefore, we would like to clarify this position that since the stay, that was granted in favour of applicant, was only not to replace him by another fresh substitute, there was no bar for the respondents to issue the fresh notification in accordance with law for filling up the post in question by making a regular selection. Therefore, in

case respondents have not yet issued the notification,
it will be open to them to issue ^{now} the same ~~and~~ and replace
the applicant by a regularly selected candidate.
Otherwise, if there ~~is~~ ^{is B} any instructions that he can
be replaced by a Gramin Dak Sewak that may also be
given effect to but applicant shall not be replaced by
another substitute from open market till the regular
selections are made.

6. In view of above directions this D.A. is
disposed off with no order as to costs.


Member-A.


Member-B

Brijesh/-