

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.**

ORIGINAL APPLICATION NO. 943 of 2002.

Allahabad this the 17th day of October of 2005.

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

Govind Narain Tripathi,
Aged about 38 years,
S/o Sri Ram Kishore Tripathi,
R/o Village & P.O. Saamhon, District Etawah.
.....Applicant.

(By Advocate : Sri P. Ojha)

Versus.

1. Union of India through Chief Post Master General Uttar Pradesh Circle, Lucknow, Ministry of Communications Department of Post.
2. Senior Superintendent of Posts, Railway Mail Service, Kanpur Sub Division, Kanpur-208001.
3. Sub Record Officer, Railway Mail Service, Etawah-206001.

.....Respondents.

(By Advocate : Sri N.C. Nishad)

O R D E R

By Hon'ble Mr. D.R. Tiwari, Member-A

By this O.A. filed under section 19 of the A.T. Act, 1985, the applicant has prayed for the following relief(s):-

- "(i) Direct the respondent NO.1 to convert the post of applicant into E.D. Mailman w.e.f. 20.6.1999.
- (ii) Declare the period of service of the applicant from the year 1990 to 1998 until the date of enforcement of conversion, as the period spent on duty with all consequential benefits inclusive of promotion as admissible to a regular E.D. Mail Man.
- (iii) Pending representation for clearance of mandatory claim be settled in favour of the applicant".

2. Short of details, the relevant facts to determined the controversy is that the name of applicant was sponsored by the Employment Exchange, Etawah as part time C.P. Waterman (contingency paid

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waterman) under the Seasonal arrangement of R.M.S. K.P. Division in the year 1990 at Etawah and continued till the year 1998. He has pleaded that since 1999 he has not been provided employment. He has claimed his appointment as E.D. Porter on the basis of D.G. Circular No.45/20/73 SPBI New Delhi dated 13.11.1981 (Annexure A-1), upon the strength of Circular of 1981, he filed a representation dated 20.6.1999. A detailed representation dated 25.5.2000 which was followed by a remainderd dated 10.11.2000 (Annexure Nos. 2,3 and 4). His representations did not yield any favourable result and finally, he filed O.A. No.610/2000 which was disposed of with direction to the respondents by its order dated 27.5.2002. The operative portion of the O.A. is under:-

"In our opinion, the ends of justice will be served if the respondents are directed to decide the representation of the applicant by a reasoned order within a specified time. The O.A. is accordingly disposed of finally with a direction to the Chief Post Master General, to decide the representations of the applicant within three months from the date of copy of this order is filed, by a reasoned order. To avoid delay, it shall be open to the applicant to file a fresh copy of the representations along with a copy of this order. No order as to costs".

The respondents passed a reasoned and speaking order dated 6.8.2002 and his request was rejected (Annexure A-6).

3. The instant O.A has been filed and the impugned order dated 6.8.2002 has been assailed on various grounds mentioned in para 5 of the O.A. It has been argued that the impugned order dated 6.8.2002 is arbitrary, illegal and without jurisdiction as the same in the teeth of the order dated 27.5.2002 passed

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by this Court in O.A. 610/02. The impugned order has been passed without taking into account the provisions of Circular letter dated 13.11.1991. It has been further contended that the applicant was eligible for appointment to the post of E.D. Mail Man by ordering Conversion of his appointment on the date of the applicant submitted his application i.e. 20.6.1995 (Annexure NO.2). Thus, in view of these reasons, the O.A. be allowed.

4. The respondents, on the other hand, have resisted the O.A. and a detailed counter affidavit has been filed. All the contentions and pleas of the applicant had been refuted. It has been argued that the applicant worked only in the capacity of Seasonal Waterman he was never engaged either as a full time of part time regular casual labour, while the casual labour full time or part time who are willing for appointment on E.D. vacancy under Rules may be given preference in the matter of E.D. Recruitment provided they fulfill all the eligibility condition and must have minimum service of 240 days in one year. Since the applicant has never worked for a period of 240 days in a year, he can not be given preference in the matter of recruitment to the E.D. Post. Moreover, neither any recruitment process of E.D.As. is pending nor in process nor due in near future for E.D. Post in "KP" Division when due to reduction of work load several post of EDA's have been abolished/ held in abeyance. The applicant did not fulfill the above condition. Therefore, he is not eligible for appointment as E.D. (Now GDS) on the basis of working

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as Seasonal part time casual labours. It has been submitted that the applicant has worked only in the capacity of seasonal waterman he was never engaged either as a full time or part time regular casual labour. The remuneration payable to seasonal waterman has already been paid to the applicant. It has been further argued that the applicant was not eligible for appointment to the post of E.D. Mailman because he did not fulfill the condition laid down in D.G Circular dated 13.12.81. It has, thus, been argued that the O.A. is meritless and deserves to be dismissed.

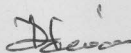
5. During the course of arguments, the counsel for the parties advanced no new arguments except reiterating the facts and legal pleas of the respective pleadings.

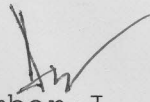
6. We have heard counsel for the parties and considered the rival submissions. We have perused the pleadings.

7. The only question which falls for consideration and adjudication is whether the impugned order dated 6.8.2002 is justified or not. We have gone through the D.G. Circular on which the applicant is placing reliance, we do not find it would help the applicant. Moreover, there has been specific assertion in the counter about the abolition of post. We are inclined to agree with the contention of the ^{Respondent's} ~~applicant's~~ counsel. The O.A. is liable to be dismissed.

Dr. A. K. Singh

8. Under the circumstances and fact of the case, the O.A. is devoid of merit and is dismissed. There is no ground to interfere with the impugned order. Cost easy.


Member-A


Member-J

Manish/-