

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 10th day of July, 2003.

Original Application No. 129 of 2003.

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

Bhupendra Singh S/o Sri Mahaveer Singh,
R/o Tibara, Distt. Ghaziabad.

.....Applicant

Counsel for the applicant :- Sri D.P. Singh

V E R S U S

1. The Union of India through the Secretary,
D/o Post, New Delhi.
2. The Inspector, Post Office, Ghaziabad.
3. The Additional Superintendent of Post Offices,
Ghaziabad.

.....Respondents

Counsel for the respondents :- Sri N.C. Nishad

O R D E R (Oral)

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

This O.A has been filed under section 19 of the Administrative Tribunals Act, 1985, challenging the action of removing the applicant on 23.10.2002 from the post of Extra Departmental Branch Post Master (EDBPM), Tibara, Distt. Ghaziabad.

2. The case of the applicant is that Additional Superintendent of Post Offices, Ghaziabad vide his letter No. 1222 dated 07.07.2000 requested Gram Pradhan, Gram Panchayat, Latifpur Tibara for sponsoring the names of eligible candidates of that village for appointment to the post of Branch Post Master. In response to the above mentioned letter, the applicant submitted his application for appointment as

EDBPM, Tibara. Other candidates also applied for the same. The applicant was given charge of Branch Post Master on 09.08.2000. The applicant has filed charge report in support of his averment that he was engaged as EDBPM as annexure A-3. The applicant has been dis-engaged and one Sri Bhoopendra Singh has been engaged vice him on 23.10.2002. Aggrieved by the action of the respondents, the applicant has filed this O.A.

3. The learned counsel for the applicant submitted that the applicant has worked on the post of Branch Post Master, Tibara from 09.08.2000 to 23.10.2002 i.e for more than two years. The applicant could not be removed without giving show-cause. The action of the respondents is highly irregular, illegal and arbitrary and needs to be set-aside.

4. Sri N.C Nishad, learned counsel appearing for the respondents submitted that he be given one week's time to file counter. He also submitted that the counter has been sent for signature. This is the first hearing of the case and we do not consider it necessary to call for the counter as this case can be decided at the admission stage itself. The learned counsel for the respondents also submitted that that applicant has not filed his appointment letter and he does not appear to be a regularly appointed EDBPM. The appointment of a temporary employee can always be terminated and the respondents have committed no error of law in dis-engaging the applicant.

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

6. The applicant has not filed any appointment letter to establish his claim that he was a regularly appointed EDBPM. However, perusal of annexure A- 3 leaves no doubt in our mind that the applicant was engaged to work as EDBPM, Tibara in

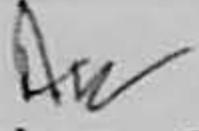
August, 2000. The applicant in support of his contention that he has been working as EDBPM against the vacant post has filed the acquittance roll of September, 2002 by which has drawn his pay. The applicant has also filed the copy of the inspection report of Mail Oversear dated 17.10.2000. Therefore, respondents cannot deny that the applicant worked as EDBPM, Tibara ^{from} ~~from~~ ^{to} ~~to~~ from August, 2000 to 23.10.2003, the date on which he ^{was} ~~was~~ dis-engaged. We are unable to understand and appreciate the action of the respondents. The applicant, from perusal of records, appears to be engaged on temporary basis and, therefore, his appointment can be treated as adhoc. The legal position is well settled that an adhoc cannot be replaced by another adhoc. Besides, since the applicant had already worked for more than two years, he could be removed only after issuing the show-cause or on appointment of regular candidate. We would like to observe that there appears to be complete disregard on the part of the respondents in selection. It appears that no notification was made to the Employment Exchange and no regular selection was held. Once he was engaged, he could not be removed as per the law laid-down on the subject. The entire action of the respondents smash of ^{Smacks} ^{irregular practice} ~~irregular facts~~ on the part of not only respondent Nos. 2 and 3 but also on ^{Senior Superintendent of Post Office} the part of ^(S.S.P.O.) Ghaziabad, who is appointing authority of Branch Post Masters.

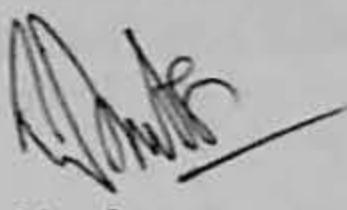
7. In the facts and circumstances and our aforesaid discussions, we direct the applicant to file a representation before the Post Master General, Bareilly, who will look in to the case and decide the representation of the applicant, if so filed, within one month by a reasoned and speaking order within specified time. The O.A is finally disposed of with direction to Post Master General, Bareilly to decide the representation of the applicant within three months from the date of communication of this order. It is

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further directed that Post Master General, Bareilly shall ensure that the applicant is reengaged as E.D.B.P.M, Tibara Branch Post Office within one month, in case Sri Bhoopendra Singh, who has taken over the charge on 23.10.2002, is not a regularly selected candidate and the applicant shall not be removed till a regularly selected candidate is available.

8. There will be no order as to costs.


Member- J.


Member- A.

/Anand/