

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.503 OF 2003  
ALLAHABAD THIS THE 30TH DAY OF SEPTEMBER, 2004

HON'BLE MR. A. K. BHATNAGAR, MEMBER-J  
HON'BLE MR. D. R. TIWARI, MEMBER-A

Jagdamba Prasad,  
S/o Sri Ram Pratap Lal Srivastava,  
R/o Village-Khadra, Post-Bhawanipur,  
District-Basti.

..... .Applicant

( By Advocate Sri D.K. Srivastava )

Versus

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

1.A. The Post Master Basti,  
District-Basti.

2. The Sub Divisional Inspector(P),  
Sub Division, Harraiya, District-Basti.

3. The Sub Post Master,  
Dihukpura (Kalwari),  
District-Basti.

..... .Respondents

( By Advocate Shri H.C. Dubey )

*WV*

O\_R\_D\_E\_R

HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

By this O.A. applicant has sought a direction for quashing of the impugned order dated 30.04.2003 passed by respondent no.2 (Annexure-1 to the O.A.) with a direction to respondents not to disturb the functioning of the applicant on the post of Village Post Man till the ~~selection~~ selection of Village Post man through Departmental Examination.

2. The case as per the applicant is that, he was engaged (outsider) on the post of Village Post Man at Branch Dihukpura, Kalwari, District-Basti on 30.11.2002 which fell vacant due to retirement of one Shri Dharmveer. The applicant has challenged the order dated 30.04.2003 by which one Mewa Lal was deputed to work on the post in question till regularly selected candidate is available by disengaging the applicant. In view of this, the right of the applicant was protected by directing the respondents to maintain Status-quo as on today vide order dated 9.5.2003. Since then the applicant is continuing on the post.

3. Learned counsel for the applicant submitted that the applicant has been working on this post for about two years, so the respondents have no legal right to disturb the applicant from this post.

4. Resisting the claim of the applicant the respondents filed supplementary counter alongwith

*AK*

M.A. 4066/04 for vacating the stay order granted on 09.05.2003 and M.A. No.4067/04 for taking the supplementary affidavit on record and to dismiss the O.A. as having become infructuous. Accordingly, supplementary affidavit is taken on record. Learned counsel for the respondents invited our attention to para 6 of the Supplementary Counter Affidavit and submitted that the deponent has conducted the examination for the promotion to the cadre of postman/VPM from GDS cadre held on 09.05.2004, Shri Ram Briksha who has been declared successful candidate in the said examination vide memo dated 20.08.2004 and has been duly appointed and allotted to Haraiya Sub Division against the vacancy of said vacant post of village postman Kalwari vide memo dated 6.9.2004 (Annexure CA-1 & 2).

5. Admittedly, the applicant has challenged the order dated 30.04.2003 directing one Mewa Lal to join the post in question in place of applicant without making him a necessary party which is itself not tenable because of non implementation of necessary party. Besides the applicant himself prayed in para 8(ii) of the O.A. as under:-

"To issue an order or direction to the respondents not to disturb the functioning of the applicant on the post of Village Post Man till the selection of Village Post Man through Departmental Examination."

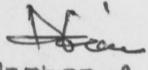
As now the regularly selected person namely Sri Ram Briksh is available so the applicant has no claim of continuance on the post in question. So rightly the O.A. has been rendered infructuous now, as argued by

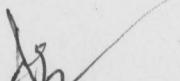
✓

counsel for the respondents.

6. We have heard counsel for the parties and perused the pleadings as well.

7. In view of the above discussion, we find that the applicant is having no legal claim on this post as he was engaged as an outsider temporarily as a stop gap arrangement and when a candidate has been selected on regular basis, he is entitled to be appointed on that post. Accordingly, both the Misc. applications are allowed. Interim order dated 09.05.2003 is hereby vacated and the O.A. is also dismissed being devoid of any merit. No Costs.

  
Member-A

  
Member-J

/ns/