

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

original Application No. 1070 of 2003.

this the 28th day of September, 2004.

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

Hari Ram Pandey, aged about 24 years, S/o Sri Dhruwa Prasad
Pandey, R/o Village & post Budha Kalan, Munderwa, Basti.

Applicant.

By Advocate : Sri Rakesh Verma.

Versus.

1. Union of India through the Secretary, Ministry of
Communication (Department of posts), New Delhi.
2. The Superintendent of post Offices, Basti Division,
Basti.
3. The Sub-Divisional Inspector of post offices, Khalilabad
Sant Kabirnagar.

Respondents.

By Advocate : Sri H.C. Dubey.

ORDER

BY D.R. TIWARI, MEMBER(A)

By this O.A. filed under Section 19 of the A.T.
Act, 1985, the applicant has prayed for issuance of a direction
to the respondent no.3 to permit the applicant to continue
on the post of Branch post Master, Budha Kalan, Munderwa,
District Basti, till a person regularly appointed joins
on the said post and to pay the applicant allowances regularly
month to month.

2. The facts of the case is that the applicant was
appointed as substitute GDS BPM at Budha Kalan, Munderwa,
District Basti by an order dated 27.6.2003 (Annex D), who joined
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w.e.f. 29.7.2003. It has been submitted that his work and conduct had been satisfactory and has been working without any complaint. It has further been submitted that no person in the regular capacity has been appointed and joined yet, the respondent no.3 illegally and arbitrarily wanted to get charge of the aforesaid post.

3. The O.A. has been assailed on multiple grounds mentioned in para no.5 and its sub paragraphs. However, we will examine only those grounds which have been stressed during the course of arguments in the subsequent paragraphs.

4. The respondents, on the other hand, have resisted the O.A. by filing a detailed Counter affidavit and hotly contested the claim/contention of the applicant. They have argued that one Sri D.P. Pandey regularly selected and appointed GDS BPM was directed to work as GDS BPM, Daridiha from the afternoon of 29.7.2003 on the retirement of Sri Gauri Shanker Maurya from the said post. Accordingly Sri D.P. Pandey engaged the applicant on his post of GDS BPM, Budhakalan on his risk and responsibility. Thereafter, the D.G. posts issued instructions vide memo dated 14.8.2003 that no vacant post of GDS may be filled in any office having two or more officials till further orders(Annexure CA-I). Since Daridiha Branch post office had already two sanctioned posts of GDS and even on the retirement of Gauri Shanker Maurya one GDS MD/MC regularly selected candidate was working, hence the arrangement of D.P. Pandey was not considered necessary to continue in the light of the aforesaid instructions dated 14.8.2003. Hence Sri D.P. Pandey was relieved from the post of GDS BPM Dharidiha with instructions to join his substantive post of GDS BPM Budha Kalan and was relieved on 11.9.2003. The work of the post of GDS BPM Daridiha is being managed by the regularly selected and appointed official in addition to his own duties. Sri D.P. Pandey joined the substantive post of GDS BPM, Budha Kalan

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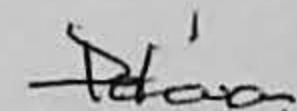
on 12.9.2003 and on his joining the substitute i.e. the applicant engaged by him has been discharged. A True copy of the charge report dated 12.9.2003 is attached as Annexure no. CA-II.


5. We have heard at length the rival submissions made by the counsel from either side and perused the records.

6. During the course of arguments, the counsel for the applicant strenuously argued that no adhoc appointment could be substituted by another adhoc appointment so the verbal order of the authority to the applicant to hand over the charge of his post, is illegal and arbitrary. The counsel for the respondents argued and drew our attention to para 13 of the Counter affidavit that the interim order dated 10.9.2003 directed that the petitioner would be allowed to continue on the post till regularly selected candidate becomes available. It was submitted that the petitioner has been relieved by a regularly selected candidate and allowed to work on the post vide memo dated 22.1.2004 (Annexure CA-III). Para 2 of the Annexure CA-III clearly stipulated that Sri Hari Ram Pandey substituted engaged by Sri B.P. Pandey had to be relieved from the said post on 12.9.2003 as Sri D.P. Pandey regularly selected candidate joined that post on the above stated date.

7. During the course of arguments, the attention of the learned counsel for the applicant was drawn to this para, who did not contest this.

8. In view of the facts mentioned above and the discussions made, the O.A. is devoid of merit and is accordingly dismissed. No order as to costs.


MEMBER (A)


MEMBER (J)