

(5)

Amrutlal Arjanbhai Desai

.. Applicant

Versus

Union of India & Anr.

.. Respondents

CORAM : Hon'ble Mr. G.S. Nair .. Vice Chairman

Hon'ble Mr. M.M. Singh .. Administrative
Member

Counsel for Applicant : Mr. M.R. Anand

Counsel for Respondents: Mr. J.D. Ajmera

O R D E R

Date : 21.3.1990

Per : Hon'ble Mr. G.S. Nair .. Vice Chairman

The applicant and counsel not present.

Heard Mr. J.S. Yadav for Mr. J.D. Ajmera, learned
counsel of the respondents, and perused the records.

2. The applicant was appointed as Extra
Departmental Delivery Agent till regular appointment
is made, with effect from July, 1984 by the order
dt. 5.1.1987. One Shri Hiraji Ravaji Thakore has
been regularly appointed to the post pursuant to
which the services of the applicant have been
terminated. The applicant has prayed to treat the
termination of his service as illegal and to treat
the regular appointment of Mr. Thakore as without
jurisdiction and illegal.

3. It is urged that when regular selection
was conducted the applicant should have been
considered and since it has not been done, the
selection and appointment are bad in law. There
is also the plea that the services of the applicant

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could not have been terminated until the appointment of a regularly selected candidate.

4. In the reply filed on behalf of the respondents, it is stated that the appointment of the applicant was purely on a temporary basis and that since regular appointment to the post has been made in accordance with the Rules, the applicant has no right to continue in the post. It is contended that since Mr. Thakore has been regularly selected and appointed, the applicant is not entitled to the relief claimed.

5. Admittedly, the appointment of the applicant to the post of Extra Departmental Delivery Agent was on a provisional basis, till regular appointment is ~~to be~~ made. As such the applicant has not acquired any legal right to the post and cannot ^{still} ~~stop~~ the appointment of the regular candidate. As per the Extra Departmental Agents (Conduct & Service) Rules the appointment of the Extra Departmental Agent has to be made after inviting nomination from the Employment Exchange. The respondents have pointed out that it was after following the said procedure that Mr. Thakore has been selected and regularly appointed to the post. It is also to be noted that the applicant has not even cared to implead the said Thakore. At any rate it cannot be said that the appointment of Mr. Thakore is illegal. Since the termination of service of the applicant was consequent upon the regular appointment of Mr. Thakore the alleged illegality with respect to the

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