

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 417 OF 1992.

~~Ex No~~

DATE OF DECISION 6-7-1993.

Shri Kantilal Popatlal Bhogayata, Petitioner

Mr. B.B.Gogia, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent^s

Mr. Akil Kureshi, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr. M.R.Kolhatkar, Admn. Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✗

Shri Kantilal Popatlal Bhogayata,
Hindu, Adult, Aged about 23 years,
Occupation: Service
Address: At & Post Navadra,
(Via) Bhaḡia,
Dist: Jamnagar.
(Advocate: Mr. B.B.Gogia)

..... Applicant.

Versus.

1. Union of India,
Through: Secretary
Department of Posts,
Government of India,
New Delhi.

2. Superintendent of Post Offices,
Jamnagar Division,
Jamnagar.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 417/1992

Date: 6.7.1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. B.B.Gogia, learned advocate for the applicant and Mr. Akil Kureshi, learned advocate for the respondents.

2. This application under section 19 of the Administrative Tribunals Act, 1985, is filed by the applicant serving as E.D.B.P.M. at Navadra village in Jamnagar District, against the apprehended termination of his services and also praying for direction to the respondents to regularise the services of the applicant in Class IV category.

3. The case of the applicant as pleaded in the application is that the Mail Overseer from Khambalia gave instant appointment chit to the applicant engaging him from 14th June, 1991 vide Annexure A-1. The

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applicant was formally appointed in place of one Shri H.G.Davada against whom proceedings were initiated for misappropriation of amount, that the applicant since 14th June, 1991 is working with the respondents and as per the conditions of his appointment Annexure A-2 by respondent No.2 dated 26th August, 1991, the applicant has to be continued in services as a provisional appointment to the post of E.D.B.P.M till the disciplinary proceedings against Shri H.G.Davada are finally disposed of and he has exhausted all channels of departmental and judicial appeals and petition etc. and in case it is finally decided not to take Shri H.G.Davada back into service till regular appointment is made. The case of the applicant is that the disciplinary proceedings against Mr. Davada ^{are} ~~is~~ still pending and hence according to the terms of his appointment Annexure A-2 the respondents can not terminate the service of the applicant since vacancy to continue him in service ^{exists.}

4. The respondents have filed reply contending that the regular B.P.M Shri H.G.Davada was placed under put off duty with effect from 6th April, 1991 as he was involved in a fraud case and the applicant was handed over the charge of the B.P.M. Navadra. It is contended that in response to the letter of the respondents dated 12th June, 1991, Employment Exchange has furnished a list of four candidates which contain the name of the applicant. The learned ^{Madwale} Mr. Kureshi ^{for} the respondents submits that this is an error in the

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reply para 4.2 and according to him, the said list did not contained the name of the applicant. It is contended that the appointment of the applicant is provisional and not a regular appointment and the termination of such provisional appointment is quite legal and valid.

5. This Tribunal had on 20th October, 1992 granted interim stay to the respondents against the termination of the services of the applicant and hence till today the applicant is not terminated. The learned advocate Mr. Kureshi for the respondents submit, that the conditions of the appointment of the applicant suggest that the appointment is provisional and not regular and therefore, there is no question of regularisation of the applicant's service. The learned advocate Mr. Gogia submits that looking to the condition No.2 of the appointment of the applicant vide Annexure A-2, the respondents can not terminate the applicant's service till the disciplinary proceedings against Shri H.G.Davada are finally disposed of and till it is finally decided not to take him back into service till regular appointment is made. It was difficult for the learned advocate Mr. Akil Kureshi for the respondents to suggest that the applicant can be terminated at any time.

6. We have heard the learned advocates and have gone through the documents on record and we pass the following order.

ORDER

The respondents are directed not to terminate the services of the applicant till the disciplinary proceedings against Shri H.G.Davada are finally disposed of or till it is finally decided not to take him back into service and in case it is decided not to take Mr. H.G.Davada back into service ^{then} till the regular ^L appointment is made. Rule is made absolute. At this ^{does not} stage the question of regularisation arise, hence ^L not granted. The application is disposed of with no order as to costs.

M.R. Kolhatkar

(M.R.Kolhatkar)
Member (A)

R.C. Bhatt

(R.C.Bhatt)
Member (J)

vtc.