

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. /720/93
T.A.NO.

DATE OF DECISION 5.11.98

Vinodkumar Lalshankar Joshi

Petitioner

Mr. M.R. Anand

Advocate for the Petitioner [s]

Versus

Union of India & ors.

Respondent

Mr. Y.N. Ravani

Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V.Ramakrishnan **Vice Chairman**

The Hon'ble Mr. P.C. Kannan **Member (J)**

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?

2. Whether the Reporters referred to the Reporter or not ?

3. Whether their Lerdships wish to see the fair copy of the Judgment ?

4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Shri Vinodkumart Lalshankar Joshi,

Branch Post Master,
Paldi, Visnagar,
District- Mehsana.

: Applicant

[Advocate : Mr.M.R.Anand]

versus

1. Union of India, Through :
Chief Post Master General,
Gujarat Circle,
Ahmedabad.
2. Senior Superintendent of Post Office,
Mehsana, District- Mehsana.

Respondents

[Advocate Mr.Y.N.Ravani]

ORAL ORDER
IN
O.A.NO.720/93

Dt.5.11.98

PER HON'BLE MR.V.RAMAKRISHNAN : Vic

Mr.Ravani present. Mr.Anand is
also. He had not been present on a number of
Dismissed for default. No costs.

P.C.KANNAN
[P.C.KANNAN]
MEMBER [J]

[V.I.
VICE

on A.S.T. 334/99 in cm 720/98

DATE	OFFICE REPORT	ORDER
12/7/99	Ans' Parul Patel Adv for Mr. A. M. Raval, is present & stated time to file up order of this Tribunal. Adj. on 20/7/99.	<p>Sir 2 12/7/99, Dy Reg CO</p>
20.7.99	DR (I) on leave none present for Application Adj to 30.7.99 <u>Ans' Reg</u> on 20.7.99	
2	<p>The Advocate has removed objection on 29.7.99 & now MA place removes B DR (I) on 29.7.99</p> <p><u>Ans' Reg</u> on 29.7.99</p>	

DATE	OFFICE REPORT	ORDER
4.8.99	<p>Mr. Raval is not present today also.</p> <p>Counsel representing for Mr. Raval says that she has no brief. Adjourned to 9.9.1999.</p> <p>(A.S. Sanghavi) (J) Member</p>	<p>Mr. Raval is not present today also.</p> <p>Counsel representing for Mr. Raval says that she has no brief. Adjourned to 9.9.1999.</p> <p>(A.S. Sanghavi) (J) Member</p>
9.9.99	<p>Mr. Raval says that he will give a copy of MA 450/99 to Mr. Doctor, who will seek instructions. Adjourned to 15.10.1999.</p> <p>(A.S. Sanghavi) (J) Member</p>	<p>Mr. Raval says that he will give a copy of MA 450/99 to Mr. Doctor, who will seek instructions. Adjourned to 15.10.1999.</p> <p>(A.S. Sanghavi) (J) Member</p>
15.10.99	<p>Mr. Raval prays for time. Adjourned to 19.11.1999.</p> <p>(A.S. Sanghavi) (J) Member</p>	<p>Mr. Raval prays for time. Adjourned to 19.11.1999.</p> <p>(A.S. Sanghavi) (J) Member</p>
19.11.99	<p>Mr. Doctor files reply to MA/450/99.</p> <p>Mr. Raval not present. To give one final chance adjourned to 17.12.99.</p> <p>Appeal memo is not filed by Mr. B.M. Doctor. Hence his name is not shown DHRV 16/11/99</p>	<p>Mr. Doctor files reply to MA/450/99.</p> <p>Mr. Raval not present. To give one final chance adjourned to 17.12.99.</p> <p>(A.S. Sanghavi) (J) Member</p>

17.12.99

Mr. A.M.Raval not present. Mr. B.N.

Doctor files appearance. Adjourned to 24.1.2000.

pmr

(A.S.Sanghavi)
Member (J)

(V.Ramakrishnan) (P.C. Kannan)
Member (J) Vice Chairman

pmr

24.1.2000

Mr. Raval says that he has got a copy

of the reply to MA 450/99 and prays for a
short adjournment. Adjourned to 28.2.2000.

An

(P.C. Kannan)
Member (J)

(V.Ramakrishnan)
Vice Chairman

(A.S.Sanghavi) (V.Ramakrishnan)
Member (J) Vice Chairman

(L) vtc.

28.2.2000

Seen resolution of the Bar Association
that the lawyers are abstaining from work
today as a mark of respect to the memory
of Hon'ble Justice Mr. M. Srinivasan, ~~Judge~~
Judge of the Hon'ble Supreme Court, who
expired on Friday. Adjourned to 5.4.2000.

An
(A.S.Sanghavi)
Member (J)

M
(V.Ramakrishnan)
Vice Chairman

05.04.2000

vtc.

Mr. Raval and Mr. Doctor, counsel
for both sides, present. Adjourned to
05.05.2000.

An
mb

(P.C. Kannan)
Member (J)

तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
15-2000		Place it before Division Bench on 21.06.2000.
21.6.2000		Division Bench matter. place it before Division Bench on 11.7.2000.
11.7.2000		At the request of Mr. Raval adjourned to 2.8.2000.
2.8.2000		Mr. Raval not present. Adjourned to 18.8.2000.

तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	विधान सभा ब्राह्मदेश ORDER
18.8.2000	Mr. Raval present.	Mr. Raval not present. Mr. present. Adjourned to 6.9.2000. <i>DR</i>
		(P.C.Kannan) Member (J)
		(V.Ramakrishnan) Vice Chairman
		vtc.
6.9.2000	Mr. Raval not present.	At the request of Mr. Raval, adjourned to 25.9.2000. <i>DR</i>
		(A.S. Sanghavi) Member (J)
		(V. Ramakrishnan) Vice Chairman
		<i>MB</i>
25.9.2000	Mr. Doctor present.	Mr. Doctor prays for time. Adjourned to 4.10.2000. <i>DR</i>
		(P.C.Kannan) Member (J)
		(V.Ramakrishnan) Vice Chairman
		<i>MB</i>
		ab

DATE	OFFICE REPORT	ORDER
9.10.2000		<p>Mr. Raval not present. Place it before Division Bench on 9.11.2000.</p> <p style="text-align: right;">M</p> <p>(V.Ramakrishnan) Vice Chairman</p> <p>vtc.</p>
9.11.2000		<p>Mr. Raval and Mr. Doctor are present.</p> <p>Mr. Doctor says that departmental file is available. However, the Division Bench is not available and the matter is to be heard finally. Hence adjourned to 24.11.2000.</p> <p style="text-align: right;">A</p> <p>(A.S.Sanghavi) Member (J)</p> <p>pmr</p> <p>Adjourned to 29/11/2000</p> <p style="text-align: right;">M</p> <p>(V.Ramakrishnan) Vice Chairman</p> <p>MB.</p>
24/11/2000		

DATE	OFFICE REPORT	ORDER
29.11.2000		At the request of Mr. Raval, adjourned to 13.12.2000.
		<i>Ar</i>
	(P.C.Kannan) Member (J)	(V.Ramakrishnan) Vice Chairman
	vtc.	<i>M</i>
13.12.2000		Mr. Raval is not present now. Adjourned to 10.1.2001.
		<i>Ar</i>
	(P.C.Kannan) Member (J)	(V. Ramakrishnan) Vice Chairman
	<i>SM</i>	<i>M</i>
10.1.2001		Mr. Rao for the applicant not present. Adjourned to 7.2.2001.
		<i>Ar</i>
		(A.S.Sanghavi) Member (J)
	<i>SM</i>	
7.2.2001		At the request of both counsel, adjourned to 20.3.2001.
		<i>Ar</i>
	(A.S.Sanghavi) Member (J)	(V.Ramakrishnan) Vice Chairman
	vtc.	<i>M</i>

दिनांक Date	कार्यालय टिप्पणी Office Report	आदेश Order
20.3.2001	Mr. Raval has filed a leave note.	
	Mr. Doctor present. Adjourned to 17.4.2001.	
	 (A.S. Sanghavi) Member (J)	 (V. Ramakrishnan) Vice Chairman
	MV	
17.4.2001	At the request of Mr. Raval, adjourned to 6.6.2001.	
	 (A.S. Sanghavi) Member (J)	 (V. Ramakrishnan) Vice Chairman
	vtc.	
6.6.2001	M.A. 450/99 is allowed and the O.A. is resotted to file.	
	2. Heard both sides. Order dictated.	
	 (A.S. Sanghvi) Member (J)	 (V. Ramakrishnan) Vice Chairman
	SM	

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

O.A. 720/1993

Ahmedabad this the 6th day of June, 2001

**Hon'ble Mr. V. Ramakrishnan, Vice Chairman
Hon'ble Mr. A.S. Sanghvi, Member (J)**

Shri Vinodkumar Lalshankar Joshi,
Branch Post Master,
Paldi, Visnagar,
Dist: Mehsana.

Applicant

Advocate: Mr. A.M. Raval

Versus

1. Union of India
Notice to be served through
The Chief Post Master Genera,
Gujarat Circle,
Ahmedabad-1.
2. Senior Superintendent of Post Office,
Mehsana, Dist: Mehsana -384 001.

Respondents.

Advocate: Mr. B.N. Doctor

**ORAL ORDER
O.A. 720/1993**

Date: 6.6.2001

Per: Hon'ble Mr. V. Ramakrishnan : Vice Chairman

We have heard Mr. Raval for the applicant and Mr. Doctor for the respondents.

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2. The applicant who was given provisional appointment as EDBPM, Paldi has approached the Tribunal challenging the order dtd. 2.11.92, which terminates his provisional appointment and the order dtd. 2.2.93 given by the Chief Post Master General, copy at Annexure A-10, which disposed of his review/representation challenging the termination of his provisional appointment. He has also prayed for a direction to be reinstated with full backwages and confirmed as E.D. Branch Post Master.

3. We find that when the post of EDBPM fell vacant the applicant was given provisional appointment by an order dtd. 22.7.91. This order initially gave appointment upto 16.1.91 but he continued as such till 9.11.92. It is also seen from the materials more particularly from the order of the Chief Post Master General dtd. 2.2.93 that a regular selection process was taken up and the SSP, Mehsana has initially selected one Shri M.A. Chaudhary on 14.8.91 for appointment as EDBPM, Paldi. However, the applicant was also considered and he also seems to have been selected for regular appointment on 26.9.92 and action was initiated to complete pre-appointment formalities. The authorities have stated that before the applicant could be appointed regularly it was noticed by the Appointing Authority as well as by the Circle Office that the applicant was not eligible for appointment as he had neither independent source of livelihood nor immovable property in his own name. The respondents, therefore, proceeded to act on the selection made by the SSP, Mehsana. It is stated that Shri M.A. Chaudhry who was regularly selected on 14.8.91 has been given regular appointment as EDBPM.

4. Mr. Raval for the applicant submits that the reasons given for terminating the service of the applicant are not correct as no opportunity

was given to him to state his case that he had in fact adequate means of livelihood. Having been appointed earlier, the applicant should have been continued and his services could not have been terminated without following the due procedure and without giving him any notice. Mr. Raval also says that the applicant had served for 240 days on provisional basis earlier and this aspect should have been kept in view by the authorities.

5. Mr. Doctor for the respondents submits that the order of the Chief Post Master General dtd. 2.2.93 gives in detail, the sequence of events and the reasons for the action taken by the respondents. He states that one of the essential conditions for appointment as EDBPM is that the candidate must have adequate means of livelihood and as per the inquiry conducted by the respondents it transpired that the applicant did not fulfill this condition. Mr. Doctor does not agree that notice or formal proceedings are required when the provisional appointment is terminated. The department took up the process of regular selection and eventually found Shri Chaudhary as the best candidate who fulfills all the requisite conditions and accordingly gave him the regular appointment. The applicant being only a provisional appointee can always be replaced by a regular appointee who has been appointed after due process of selection. Mr. Doctor also says that Shri Chaudhary has taken over as EDBPM on regular basis. According to him, the O.A. is devoid of merit and should be dismissed.

6. We have considered the rival contentions. It is clear from the O.A. that what is challenged is the termination of the applicant's service on provisional basis. This is clear from the para 3 & 4 of the O.A., which gives the subject in brief. The grounds urged in support of the contention that the termination of the service of the applicant is illegal are that no inquiry was

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held and it is in violation of principle of natural justice. The relief sought is to quash the impugned order dtd. 2.11.92, copy at Annexure A-7. This order reads as follows:

The services of Shri V.L. Joshi who was appointed provisionally as EDBPM, Paldi in account with Visnagar HO are hereby ordered to be terminated with immediate effect.

Shri V.L. Joshi will please hand over the charge of EDBPM, Paldi to Shri Manubhai Abharajbhai Chaudhari who has been selected as EDBPM, Paldi regularly.

7. The further relief is to quash the orders of the Chief Post Master General dtd. 2.2.93, which rejects the review/~~stock~~ representation against the orders of the Sr. Supdt. of Post Office, Mehsana. It is clear from the basic order that the applicant was appointed on provisional basis and his services were terminated and that he was required to hand over the charge to Shri Chaudhary who has been regularly selected as EDBPM. Nowhere in the O.A. has the applicant made any reference to the merits of the selection by which Shri Chaudhary has been found to be the most suitable. What is more Shri Chaudhary who has taken over the charge from the applicant after regular appointment is not made one of the respondents in the present O.A. As such the issue in the O.A. is confined only to the question as to whether the termination of services of the applicant who was appointed on provisional basis suffers from any illegality. We find from the O.A. that one of the grounds urged is that the provisions of CCS (CCA) Rules were not followed. We are dealing with the case of extra departmental staff and they are governed by a different set of rules and not by CCS (CCA) Rules. In any case the applicant ~~was~~ only a provisional appointee and has been replaced by Shri Chaudhary who has been found to be the best candidate after

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taking up regular selection. It is found from the materials on record that the applicant was duly considered along with Shri Chaudhary and others and the department took the view as the applicant did not fulfill one of the essential conditions namely he did not have adequate means of livelihood, he was not eligible ~~to~~ to the appointment and accordingly Shri Chaudhary who was selected earlier was given regular appointment. This selection has not been challenged. Mr. Raval has sought to argue that the department having selected the applicant at one stage could not have terminated his services without giving him notice. We do not agree. Selection or placement in a panel by itself does not confer any automatic right for appointment. Besides we find from the order of the Chief Post Master General that the selection was subject to completion of pre-appointment formalities. It is not in doubt that for appointment as EDBPM the candidate has to fulfill certain essential conditions and one of the conditions is that he should have adequate means of livelihood. The department on inquiry came to the finding that he did not fulfill this essential condition and accordingly held him to be ineligible to be appointed as EDBPM and ~~after~~ ^{appointed} Shri Chaudhry on a regular basis and such selection has not been challenged ~~but by a regular appointee~~. It is open to the department to replace a provisional appointee by a regular appointee and no notice is required in such a case as the provisional appointment order itself makes it clear that such appointment will be terminated when regular appointment is made.

There is also a reference that the applicant had completed 240 days. So far as this Tribunal is concerned this aspect is not relevant. We note that the applicant was a provisional appointee and he has been replaced not by a provisional appointee but by a regular appointee. After conducting regular selection the provisional appointee was replaced by a person appointed on regular basis.

:6:

8. We do not find any merit in the grounds urged in support of the O.A.
The O.A. is dismissed with no order as to costs.

A.S.S.

(A.S. Sanghvi)
Member (J)

V.Ramkrishnan

(V. Ramakrishnan)
Vice Chairman

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