

On 21.3.2003

Copy of order  
communicated to  
all resp'ts. and  
said copy handed  
over to couns'l's  
for both side.

BB  
10/10/03  
SD

Order dated 3.2.2003

Heard Shri S.K.Nayak-2, Advocate for the Applicant and Shri S.Bhera, Addl. Standing Counsel appearing for the Respondents and perused the pleadings.

Shorn of unnecessary details, it would suffice to note that the Applicant (who was provisionally appointed through a regular process of selection ~~for~~ of the post of EDBPM <sup>of</sup> Kood Branch Post Office and in which post he joined on 24.6.1998) having been terminated w.e.f. 19.2.2001 under Annexure-3, he has filed this Original Application under Section 19 of the A.T. Act, 1985 to direct the Respondents to give appointment to the applicant as EDBPM in any Post Office.

Respondents have filed their counter opposing the prayer of the Applicant.

It is not in dispute that the Applicant was provisionally appointed as EDBPM <sup>of</sup> Kood Branch Post Office through a regular process of selection and his service has been terminated (before completion of three years) because of reinstatement in service of the regular incumbent, who was put off duty in consequence of a disciplinary proceedings/administrative reason. In this respect, it would be profitable to quote the relevant instructions of D.G.P&T Lr. No. 43-4/77-Pen dated 18th May, 1979, which reads as under:

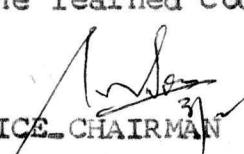
" Efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge they had put in not less than three years' service. In such cases their names should be included in the waiting list of ED

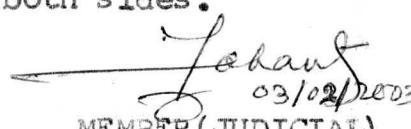
Agents discharged from service, prescribed in D.G.P&T Letter No.43-4/77/Pen., dated 23.2.1979".

On a close scrutiny of this instruction, we find that the Applicant, in the instant case, falls short of four months and some days and, therefore, his case does not come within the **purview** of this instruction for being enlisted as discharged E.D.Agent. In this view of the matter, while rejecting this Original Application, we hope and trust that the Respondents will do well to consider the candidature of the Applicant for any other vacancy in E.D.Cadre, (in case the Applicant applies for the same in pursuance of notification) along with others and, while considering the candidature of all the candidates, the applicant should be given a preferential treatment over others <sup>by</sup> keeping in mind that that he had rendered services as EDBPM, Kood Branch Post Office on provisional <sup>and as a substitute</sup> basis for more than three and half years and that his service had been terminated on administrative reasons.

In the peculiar circumstances of the case, there shall be no order as to costs.

Send copies of this order to Respondents and free copies of this order be handed over to the learned counsels of both sides.

  
VICE-CHAIRMAN

  
03/02/2003  
MEMBER (JUDICIAL)