

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. OA 512 of 96

Present : Hon'ble Mr.D.Purkayastha, Judicial Member

Hon'ble Mr.B.P.Singh, Administrative Member

MANARANJAN MONDAL

VS

UNION OF INDIA & ORS.

For the applicant : Ms.S.Banerjee, counsel

For the respondents: Mr.S.N.Das, counsel

Heard on : 6.7.2001

Order on : 6.7.2001

O R D E R

D.Purkayastha, J.M.

The grievance of the applicant in short is that he was appointed as EDBPM provisionally as the regular incumbent was placed under put-off duty in the year of 1980. The applicant continued in the said post on provisional basis up to 1996 when the departmental proceeding against the incumbent concerned was terminated in his favour and the department re-instated him in pursuance of the order of the Tribunal. The department under direction of the Tribunal offered opportunity of being heard to the said Rabindranath Das, EDBPM, Madhya Gurguria imposed penalty of censor instead of removal. Thereafter they decided to terminate the applicant from service by re-instatement of Rabindranath Das in his place. According to the applicant, since he rendered more than 15 years as EDBPM, Madhya Gurguria, he is entitled to get preferential treatment for appointment as such in view of the circular of D.G., P&T Letter No. 43-4/77-Pen., dated 23.2.79 where it is mentioned that 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 3 years continuous approved service. In such cases, their names should be included in the waiting list of ED Agents discharged from the service. Since the respondents did not offer any alternative appointment he approached the Tribunal for getting benefits of the order passed by the authorities.

2. The respondents have denied the claim of the applicant. It is the claim of the respondents that he was given opportunity to contact the Sub-Divisional Inspector for getting alternative offer but he did not contact the Sub-Divisional Inspector (Postal), Mathurapur Sub-Division. Therefore his case could not be considered. He also created obstruction in the way of making over charge to Rabindranath Das.

3. We have gone through the records and we find that no communication has been made to the applicant in writing offering him alternative employment as required under the instructions. The applicant also made a representation on 10.2.96 stating the reasons as to why he could not contact the Sub-Divisional Inspector (Postal), Mathurapur Sub-Division on 10.2.93 (Annexure 'D'). We find that the authority did not take any action in writing even after the receipt of the representation dated 10.2.96. Thereafter the applicant made another representation on 9.4.96 but the respondents did not take any action.

4. We find that the applicant had discharged the functions of EDBPM for 15 years and thereafter he had been discharged ^{from the post} due to re-instatement of the incumbent who returned to his post after termination of the proceeding against him. In view of the aforesaid circumstances it was obligatory on the part of the respondents to offer alternative employment to the present applicant in view of the circular mentioned above. Since the respondents did not offer any alternative appointment as per records, we are therefore of the view that the applicant ought to have been given the alternative appointment in the vacancy available under the respondents.

5. Accordingly we direct the respondents, specially the

respondents No. 5 & 6 to accommodate the applicant by giving an alternative employment against the first available vacancy as early as possible in the light of the circular mentioned above.

6. With this observation the application is disposed of awarding cost of Rs.5000/- to the applicant.

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MEMBER (A)

in

6/7/2001

MEMBER (J)