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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....
Date of order : 27.4.2000.

O.A.NO. 108/1997

Lakhma Ram S/o Shri Heeraji aged 35 years, R/o Raikon Ka Bas, Gandhi Chowk, Sumerpur Distt. Pali, Casual Labour, SDO Tel. Office, Sumerpur.

.....Applicant.

VERSUS

1. Union of India through the Secretary to the Government, Department of Telecommunication, New Delhi.

2. Telecom District Manager, Pali (Telecom).

3. Sub Divisional Officer, Telegraphs, Sumerpur, District Pali.

4/ Superintendent of Post Offices, Pali Division, Pali.

.....Respondents.

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Mr. Vijay Mehta, Counsel for the applicant.

Mr. K. S. Nahar, Counsel for the respondents No. 1 to 3.

Mr. Vineet Mathur, Counsel for the respondent No. 4.

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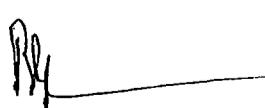
HON'BLE MR. JUSTICE B. S. RAIKOTE, VICE CHAIRMAN

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER MR. JUSTICE B. S. RAIKOTE :

This Application is filed for quashing the order dated 12.2.97 at Annex.A/1 with a further direction to the respondents to treat the applicant within the employment of the Telecom Department.



2. The applicant has stated that while he was working as ED Messenger at Sumerpur, he was sent on deputation to Telecom Department at Sumerpur on 30.3.88. The applicant submitted that he should be absorbed in Telecom Department treating as an employee of the department. The applicant further stated that earlier he had given his willingness to remain in Telecom Department vide Annex.A/3 dated 4.6.94. However, he was not absorbed in the Telecom Department. But, meanwhile the Postal Department issued a letter dated 1.5.95, Annex.A/4, directing them to repatriate the applicant to the Postal Department and in case of his non-repatriation from Telecom Department, the applicant would not be taken back in the Postal Department in future. It is the case of the applicant that ~~in case~~ he was not relieved by the Telecom Department so as to enable him to join in Postal Department. Meanwhile, the applicant was served with the order dated 17.2.97, Annex.A/1, issued by the respondent No. 3, the Telecom Department, stating therein that the applicant has been transferred back to Postal Department. But the said order has not been received by him. The applicant further submitted that he has requested the Telecom Department to absorb him in the Telecom Department, as he has been working there since long time and his representation has not been considered. Therefore, he submits that there should be a direction to the Telecom Department to absorb him in the Telecom Department.

3. The case of the Postal Department, respondent No.4

herein is, that the applicant was sent to the Telecom Department on deputation vide order Annex.R/1 dated 6.4.88. But, vide Annex.A/4, the Telecom Department was requested to repatriate him back to the Postal Department, otherwise, in future, the Postal Department will not be liable to take back the applicant in that department. In spite of the said letter vide Annex.A/4, the Telecom Department had not relieved the applicant and he has not been sent back to the Postal Department, therefore, after Annex.A/4 dated 1.5.95, the Postal Department would not be liable to take the applicant back in the Postal Department.

4. From the stand taken by the Postal Department and the Telecom Department, it is clear that neither of them want to take the applicant on the duties. The Telegram Department does not want to absorb him on the ground that applicant had come only on deputation to Telecom Department. But, on the basis of the material placed before us, it is clear that the applicant was appointed in the Postal Department and the applicant was sent on deputation vide Annex.R/1 dated 12.4.88 to the Telecom Department. From the Annex.R/1, it is clear that earlier the Postal Department and the Telecom Department were having the combined establishment and after bifurcation, those persons who were in the Postal Wing, were retained in the Postal Wing and those working in Telecom Wing were absorbed and some of them were sent to Telecom Wing on deputation. From this, it is clear that the applicant belongs to the Postal Wing and consequently an employee of the Postal Department. The fact that he was sent on deputation to the Telecom Department itself, indicates

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that he was working in Postal Department and he has his lien with the Postal Department. Presumably, in recognition of this position only, the Postal Department issued Annex.R/6 dated 4.3.97. The order Annex.R/6 was issued on the basis of Annex.A/1. Annexure A/1 is the order by which the applicant was relieved by the Telecom Department. On the basis of Annex.R/6, the applicant was given posting as S.P.M. but the learned counsel for the Postal Department submits that, that was a mistake, since his lien, if any, stood extinguished in the Postal Department after Annex.A/4.

5. But, in our opinion, since the applicant was an employee of the Postal Department before his deputation, the Postal Department is bound to take him on duty after his deputation is terminated by the Telecom Department vide Annex.A/1 dated 17.2.96. Though, it is stated in the application that Annex.A/1 was not communicated to him, but now, is admitted ~~fact~~ that the applicant received Annex.A/1 issued by the Telecom Department relieving him with effect from 17.2.97. It is only thereafter, the Postal Department issued Annex.R/6 giving posting order to the applicant at some place. But the case of the applicant is that he has not received the order Annex.R/6 dated 4.3.97. On the other hand, it is stated on behalf of the Postal Department that the communication letter sent to the applicant earlier to the order Annex.R/6, has been received by the applicant. On the other hand counsel for applicant submits that applicant has not received any earlier communication nor he has received the order Annex.R/6. These are the disputed facts which we do not think that we can entertain and decide here in one way or the other. From

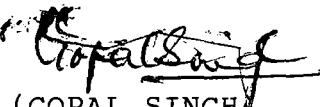


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Annex.R/6 one thing is certain that the Postal Department ultimately has decided to take the applicant back on duty by giving a posting order to a particular place. If that is so, the Postal Department cannot take-up any stand contrary to Annex.R/6 on the ground that it was a mistake on their part.

6. As we have already stated above, the applicant has a lien in the Postal Department and the Postal Department is bound to take him on duties. Keeping open the question whether Annex.R/6 dated 4.3.97 has been received by the applicant or not, we think it appropriate to direct the applicant to report for duties to the Postal Department, and respondent No.4 shall take him on duty by giving appropriate posting order on the post that he was holding earlier. Hence, we pass the following order.

7. The Application is allowed in part and the respondent No. 4, Superintendent of Post Offices, Pali Division, Pali, is directed to take the applicant on duty by giving him necessary posting order. The applicant is also directed to report to the appropriate authority on or before 15th May, 2000.


(GOPAL SINGH)

Adm. Member


(B.S. RAIKOTE)
Vice Chairman

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