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CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

Date of Order: 28.6.2001

OA No. 215/99

Asha Ram son of Shri Ukaji, aged about 38 years, resident of Mukam Post Panthedi via Dhansa District Jalore, Official address: Ex. E.D.M.C., Pathedi, via Dhansa Distt. Jalore.

Applicant.

VERSUS

1. The Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Superintendent, Post Offices, Sirohi.
3. The Assistant Superintendent, Post Offices, Jalore.
4. Sh. Sujan Singh, E.D.M.C., Resident of Panthedi, via Dhansa, District Jalore.

Respondents.

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Mr. Kamal Dave, Counsel for the applicant.

Mr. Vineet Mathur, Counsel for the respondents Nos. 1 to 3.

Mr. J.K. Kaushik is appearing for the private respondent No.4.

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CORAM

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. A.P. Nagrath, Administrative Member.

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ORDER

(per Hon'ble Mr. Justice B.S. Raikote)

Applicant has challenged the impugned order dated 12.6.99 vide Annexure A-1, by which the applicant handed over his charge and was relieved from the post of Extra

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II

Department Mail Carrier (E.D.M.C., for short), Pathedi (Dhansa). The contention of the applicant is that he had taken over charge of the said post, relinquished by Shri Sujan Singh after resignation. After resignation of Shri Sujan Singh, charge was handed over in sequence firstly to Shri Nagaram, from Nagaram to Sh. Durgan Singh, from Shri Durgan Singh to Bija Ram, from Bija Ram to Suja Ram and from Suja Ram to the applicant. The applicant contended that this post, as stated above, was vacated by Sh. Sujan Singh after he resigned from the post on 25.8.96, and the applicant took over the charge of the post on 11.9.96, and since 11.9.96, the applicant has been serving on the said post to the satisfaction of the department. But on 12.6.99, the respondent No.3 alongwith Shri Sujan Singh, took over the charge inspite of the fact that Shri Sujan Singh was not a regular employee and has not qualified in the regular selection for the post. He stated that Shri Sujan Singh has already resigned and the said resignation has been accepted according to the Rules: After Shri Sujan Singh joining the duty, this would be unauthorised. The joining of Shri Sujan Singh was itself unauthorised, since he had already resigned and his resignation was accepted, and hence, the impugned order of taking over the charge of the post from the applicant is illegal. Shri Sujan Singh was unauthorisedly absent from 9.9.96 to 12.6.99. But on 12.6.99, the Assistant Superintendent of Post Offices, Sirohi, allowed Shri Sujan Singh to discharge the duties of E.D.M.C., Pathedi, by relieving the applicant, and this action of the Superintendent is illegal. It is also submitted that Assistant Superintendent, of Post Offices, Jalore, respondent No.3, has exercised the administrative power with mala fide intention and he



could not have allowed Shri Sujan Singh, respondent No.4, to join his duties after a long unauthorised absence, and after his resignation was accepted. Therefore, the impugned order vide Annexure A/1 dated 12.6.99, by which the applicant was discharged from the duties, is liable to be set aside.

2. By filing reply, the official respondents Nos. 1 to 3 have denied the case of the applicant. They have stated that the respondent No.4, Shri Sujan Singh was regularly appointed as E.D.M.C., vide Annexure R/1 dated 13.8.85, and since then, he has been continuously working on the said post. The respondent No.4 remained absent from 9.9.96 to 12.6.99. During absence of the respondent No.4, the applicant was engaged as substitute purely on temporary basis on a stop gap arrangement w.e.f. 11.9.96. Since the respondent No.4 has joined back his duties, the services of the applicant was terminated, and he was relieved from the duties w.e.f. 12.6.99. Shri Sujan Singh, respondent No.4 withdrew his resignation on 25.8.96 vide Annexure R/2 dated 12.6.99. They have also submitted that as per the Rules, an official would continue to hold office until he is relieved of his charges, and the respondent No.4 was not relieved of the charges before acceptance of his resignation, and as such, his resignation was ineffective in the circumstances. Accordingly, the respondent No.4 continued to be a regular employee of the department since he has been taken on duty, by permitting him to withdraw his alleged resignation. So far as the unauthorised absence of the respondent No.4 is concerned, the same was being dealt with separately by the Competent Authority of the department, and an inquiry under

Rule 8 of the Extra Department Agents (CCS) Rules, 1964 is under progress. But so far as the applicant is concerned, he was engaged only during the absence of respondent No.4, and when the respondent No.4 joins on his duty, the applicant has to go out of the post. They have further stated that said appointment was purely on a stop gap arrangement on temporary basis, and absolutely there was no mala fide intention on the part of the respondents in terminating the service of the applicant and relieving him from the duties vide Annexure A/1. Accordingly, the respondent Nos. 1 to 3 sought dismissal of the OA.

3. Heard, the learned counsel for the parties.

4. On the basis of the pleadings and arguments addressed at the Bar, we have to see whether the impugned order at Annexure A/1 by which the applicant was discharged from the duties, calls for interference at the hands of the Tribunal or not?

5. The fact that the applicant was appointed on ad hoc and purely as a stop gap arrangement during the absence of the respondent No.4 w.e.f. 11.9.96 to 12.6.99, is not disputed. It is not disputed that respondent No.4, resigned the post and his resignation was accepted, and thereafter, he filed Annexure R/2, for withdrawal of his resignation, and accordingly, the respondent No4 has been taken on duty. From the reading of the withdrawal letter vide Annexure R/2 dated 12.6.99, we find that the respondent No.4 stated that he had not submitted any resignation letter, and if any resignation letter was submitted

in his name on 25.8.96, the same was false. He also stated that the said resignation letter was not his resignation letter, and it does not bear his signature also. Therefore, he wants to come on duty. By accepting his plea vide Annexure R/2, it appears that department has taken the respondent No.4 on duty. But the contention of the learned counsel for the applicant, relying upon the judgment of Hon'ble the High Court of Rajasthan (Jaipur Bench) in 1997 (3) WLC (Raj.) 755, (Bajrang Lal Vs. State of Rajasthan & Ors.) and another judgment of Hon'ble the High Court of Rajasthan (Jodhpur) reported in 2000 (2) WLC (Raj.) 482, (District and Sessions Judge, Balotra Vs. Krishan Lal & Ors.), and also the judgment of Hon'ble the Supreme Court in (2000) 9 SCC 269 (Rajasthan State Electricity Board & Ors. Vs. Brij Mohan Parihar), is that, once the resignation is accepted, the resignation becomes effective and there cannot be any withdrawal of resignation afterwards. But in our opinion, this issue whether the respondent No.4 was rightly permitted or wrongly permitted to withdraw the resignation, would not be an issue in the present application. Since the applicant has not challenged the order by which the resignation of the respondent No.4 has been permitted to withdraw the resignation. In the circumstances, the issue whether the respondent No.4 has been rightly permitted to rejoin his duty or not, cannot be decided in this case. It is for the employer for the best reasons known to them, to permit the employee to withdraw the resignation even after the resignation was accepted. And some other employee like the applicant, cannot have any locus standi to challenge the same, since the matter is between the concerned employee and the employer. In this view, of the matter, in our con-

sidered opinion, the judgment cited by the applicant, do not arise for our consideration, since subject matter relating to the acceptance of the resignation and its withdrawal thereafter, is outside the scope of this application. Thereafter, the contention urged in this behalf, merits only for rejection.

6. When the respondent No.4 is permitted to rejoin his duties after permitting to withdraw his resignation, the applicant is liable to be terminated. The applicant was appointed purely on temporary basis as stop gap arrangement in the absence of the respondent No.4, the applicant has to vacate the post of the respondent No.4, since the post he is occupying is the one occupied by the respondent No.4. In this view of the matter we do not find any illegality and irregularity in relieving and discharging the applicant on the basis of Annexure A/1 dated 12.6.99 after permitting the respondent No.4 to join on his post. The allegations of bias alleged by the applicant against respondent No.4, in these circumstances, would be ~~xxx~~ unfounded. In these circumstances, we do not find any merit in this application. Accordingly, we pass the order as under:-

"Application is dismissed. But in the circumstances without costs."

*Ans*  
(A.P. Nagrath)  
Admin. Member

*MR*  
(Justice B.S. Raikote)  
Vice Chairman

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R/COPY  
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on 5/5

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Part II and III destroyed  
in my presence on 24-07  
under the supervision of  
Section Officer (1) as per  
order dated 16/12/2007

Section Officer (1) 24-07