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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

Date of Order : 18/5/2001

Original Application No. 158/1999.

Punja Ram patel, son of Shri Heerji Patel, aged 25 years, resident of village & post Badavali, Via Itali Kheda, Distt. Udaipur, C/o Inspector, Post Offices, Salumber Sub-Division, Salumber.

APPLICANT..

VERSUS

1. Union of India, through The Secretary, Ministry of Postal Communications, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Udaipur Division, Udaipur.
3. The Inspector of Post Offices, Salumber Sub-Division, Salumber.
4. Shri Laxman Singh, Son of Shri Inder Singh Shaktawat, C/o The Inspector, Post Offices, Salumber Sub-Division, Salumber.

RESPONDENTS..

Mr. R. S. Saluja, counsel for the applicant.
Mr. Vinit Mathur, counsel for the respondent no. 1 to 3.
Mr. B. Khan, counsel for the respondent no. 4.

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Hon'ble Mr. A. K. Misra, Judicial Member.
Hon'ble Mr. A. P. Nagrath, Administrative Member.

ORDER

(per Hon'ble Mr. A. K. Misra)

By filing this OA, the applicant has challenged the order dated 17.02.1999 passed by respondent no. 3 appointing respondent no. 4 as Extra Departmental Mail Carrier (EDMC, for short). The applicant has

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prayed that impugned order (Annexure A-4) dated 17.02.1999 be quashed and the applicant be directed to be continued on the post of EDMC with all consequential benefits.

2. Notice of the OA was given to the respondents who have filed their reply, to which no rejoinder was filed by the applicant.

3. It is stated, by the applicant that in pursuance of departmental notification dated 8.1.1998 Annexure A-2 , the applicant submitted the application for appointment as EDMC, thereafter vide order dated 01.07.1998 Annexure A-3 passed by respondent no. 3 the applicant was given appointment for a period of 3 months on the post of EDMC, on which post the applicant continued till he was relieved by respondent no. 4 in pursuance of his appointment order dated 17.02.1999 Annexure A-4. It is also alleged by the applicant that while the applicant was continuing as EDMC, in pursuance of Annexure A-3 dated 01.07.1998 a fresh notification for selection of EDMC was issued on 08.12.1998 and in order to favour respondent no. 4 all the formalities were got completed by respondent no. 4 and he was appointed in place of the applicant. The applicant was eventually relieved of his charge. Hence, this OA.

4. In reply, the respondents have stated that the applicant was given a provisional appointment for a period of 3 months, which was accepted by the applica



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Subsequently, his appointment was extended to continue till a regularly selected candidate was available for appointment. The respondent no. 4 was found fit in all respect to be appointed as EDMC, therefore, appointment order dated 17.02.1999 Annexure A-4 was issued and in pursuance thereto the applicant was relieved of his charge and respondent no. 4 took over the charge. The appointment of respondent no. 4 is as per Rules, and was made on merit following the prescribed process of selection. The respondents denied the allegations of the applicant, that the appointment of respondent no. 4 was as a result of ~~an~~ favour shown to him.



5. We have heard the learned counsel for the parties and have gone through the case file. We have also gone through the departmental file relating to the selection in question, which was submitted ~~to us~~ for our perusal by the respondents as per our direction.

6. It was argued by the learned counsel for the applicant that applicant's appointment dated 01.07.1998 was in pursuance of notification dated 08.01.1998. The notification dated 08.01.1998, does not mention that the post was required to be filled in provisionally therefore, the appointment of the applicant should be treated as an regular appointment, which cannot be replaced by appointment of respondent no. 4, adopting second selection ~~of~~ process. On the other hand,

Signature

It was argued by the learned counsel for the respondents that the applicant was only appointed provisionally. His appointment was not on regular basis as claimed by the applicant. The respondent no. 4 is a regularly selected and appointed candidate, therefore, it cannot be said that the appointment of respondent no. 4 was only provisional and applicant has wrongly been relieved of his charge.

7. In our opinion, the appointment of the applicant was only provisional, although, the notification dated 08.01.1998 does not speak of any provisional vacancy, but we have to go by the terms of appointment of the applicant. From the letter dated 01.07.1998 Annexure A-3, it appears that the appointment of the applicant was only provisional. Provisional appointment can be terminated at any time without showing any cause. In the instance case, the respondent no. 4 was regularly appointed candidate and, therefore, when regularly appointed candidate was available for appointment, the provisional arrangement has to come to an end, therefore, we do not find any illegality in replacing the provisional arrangement of EDMC relating to the applicant.

8. From the departmental file we find that the respondent no. 4 was having more percentage of marks than the applicant and other candidates relating to Secondary Examination, which is the basic qualification for such appointment, therefore, the applicant cannot claim to be more meritorious than the respondent no. 4 for being appointed as EDMC. As per the comparative

chart of Marks, Laxman Singh had 39% of marks, whereas, the applicant have only 37% of marks.

9. We do not find any material on record to come to the conclusion that the respondent no. 4 was helped by the departmental authorities in respect of other necessary formalities, which was required to be completed by the candidate as per the departmental guidelines. It is very easy to make allegations of this nature but are difficult to substantiate. So far, completion of other formalities are concerned it would be sufficient to mention that once a candidate has been found fit to be appointed, necessary formalities are required to be completed before appointing such candidate on the post of EDMC. In terms of, letter of DGPNT dated 14.08.1985, which is quoted as under :-

- " (3) Verification of conditions for appointee to be done prior to appointment. One of the pre-conditions for appointment to the post of ED BPM/ED SPM relates to the verification of property and income. A number of cases have come to light where such verification was carried out only after the candidates were appointed. This practice of verification after appointment is not in order and needs to be discontinued immediately. The particulars regarding property and private income should be verified before and not after the appointment. This should be brought to the notice of all appointing authorities for strict compliance.

(D.G., P.&T., ND., Letter No. 43-198/85, dated the 14th August 1985.)

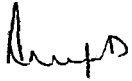
10. In view of aforesaid letter, if the formalities were got completed before issuance of letter of appointment to the respondent no. 4, no fault can be found in the process adopted by the respondents. The allegations

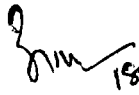


of the applicant that respondent no. 4 was helped by the Appointing Authority for completion of formalities is therefore, carries no substance. It has not been shown as to how the appointment of respondent no. 4 is in violation of guidelines issued by the department. Bare allegations in this regard do not carry any weight.

11. In our opinion, the applicant has not been able to make out a case for quashing the appointment of respondent no. 4. The OA, carries no merit and deserves to be dismissed.

12. The OA is therefore dismissed with no order as to costs.


(A. P. NAGRATH)
Admn. Member


(A. K. MISRA)
Judl. Member