

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JODHPUR BENCH,  
J O D H P U R

DATE OF ORDER : 2.12.1999.

O.A.NO. 103/1999

Budhi Prakash Jain S/o Shri Gheesa Lal aged 40 years R/o Bhilwara at present working as Postal Assistant, Office of Supdt., Post Office, Bhilwara.

.....Applicant.

VERSUS

1. Union of India through the Secretary to the Government, Ministry of Communication, Department of Post, Sanchar Bhawan, New Delhi.
2. Superintendent of Post Offices, Bhilwara.
3. Director, Postal Services, Rajasthan Southern Region, Ajmer.
4. Shri Mohd. Yusuf Khan, Accountant working in the office of Superintendent of Post Offices, Bhilwara.

.....Respondents.



CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER  
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

Mr. Vijay Mehta, Counsel for the applicant.

PER HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER :

The applicant has prayed in this case that order Annex.A/1 dated 17.11.1998 be quashed by which the applicant was directed to work on the post of ATR (Stamps) Bhilwara Headquarter. It is alleged by the applicant that he was working as Accountant in pursuance of order dated 7.4.1998, Annex.A/9. He being the senior most cannot be ordered to be replaced by another person junior to the applicant as Accountant.

*[Signature]*

2. We have heard the learned counsel for the applicant. During the course of arguments it was brought to our notice that as an Accountant the applicant was in receipt of special pay and by his transfer to the post of ATR (Stamps) he has been deprived of the special allowance. But this is an admitted position that the post of Accountant and that of ATR (Stamps) are equal ranking posts in the same pay scale. From the rules it appears that normally a senior person can be posted as Accountant if he has passed the relevant examination of Accountant. The claim of the applicant in the instant case that he is senior to respondent No. 4 Mohd. Yusuf Khan who has been posted as Accountant replacing the applicant. It is nowhere provided in the rules that only the senior most clerk is to be posted as Accountant. What is mentioned in the rules is that normally a senior person should be posted as Accountant but it is nowhere provided in the rules that in no case a junior person ~~can~~ be posted as Accountant. When rule provides that normally a senior person should be posted as Accountant that goes to show that the competent officer has a discretion in the matter. If for some reason he opines to post a comparatively junior person to the post of Accountant no fault can be found in such order. In our opinion, neither any speaking order is required to be passed in such matters nor reasons are required to be communicated to the eligible aspirants. Therefore, the contention of the applicant that no reasoned order was passed and no reasons were communicated to him before passing Annex.A/1, is without any force.

3. We ~~have~~ also find from the record that vide Annex.A/9 applicant was posted on the post of Accountant in the month of April 1998. He has now been replaced by respondent No. 4 vide impugned order dated 17.11.1998, Annex.A/1. As per these two orders it is established that the applicant had worked on the post of Accountant for more than seven months and it may just be possible that in order to give chance

8/11/

to respondent No. 4, Annex A/l might have been passed. Rules do not provide that once a person is posted as Accountant <sup>he</sup> is not required to be replaced by any one, therefore also the impugned order cannot be found at fault and no interference in the order is needed at all. The O.A., in our opinion, bears no merit and is, therefore, dismissed in limine.

Gopal Singh

(GOPAL SINGH)  
Adm. Member

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M.W.

(A.K.MISRA)  
Judl. Member

mehta