

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

ORDER SHEET

(C. APPLICATION NO. 341 OF 2001)

Applicant(s)

Respondent(s)

Advocate for
Applicant(s)

Advocate for
Respondent(s)

Notes of the Registry

Orders of the Tribunal

S-6-2002

Shri J. C. Singhvi, counsel for the applicant.
Shri B. L. Bishnoi, Adv. brief holder for
Shri Vijay Bishnoi, counsel for the respondents.

Heard the learned counsel for the parties.

The applicant had been engaged provisionally as a substitute EDBPM in village Kanti in place of one Shri Devi Lal who was put off duty on the charge of misappropriation. Shri Devi Lal agitated the matter before this Tribunal by filing OA No. 72/94 which came to be decided on 11.2.2000 in his favour. In pursuance of the said order, Shri Devi Lal has been posted back as EDBPM vide order dated 18.12.2000. The respondents had filed a writ petition against the order of this Tribunal, which was dismissed and thus the order of this Tribunal stood confirmed. In the same order, Inspector, post Offices, was directed to hand over the charge of the post of EDBPM by relieving the present incumbent. It is not in dispute that Shri Devi Lal was a regular incumbent of the post and by virtue of the order of this Tribunal, he has been posted back.

The applicant was appointed only provisionally in the place of Shri Devi Lal and has no right to continue on that post more so, when the regular incumbent has been posted back. He has taken a plea that his service has been terminated without notice and without following the provisions of Rule 6 of EDA Conduct & Service Rules. The learned counsel on his behalf also referred to the direction of this Tribunal dated 12.1.1994 in OA No. 149/93 to stress that while terminating the service of the applicant, these directions have been ignored inasmuch as the due process has not been followed.

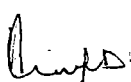
We have considered the submissions made on either side. The provisional appointee cannot have any right superior to the right of the regular incumbent of the post. When this Tribunal has passed the order in OA No. 149/93, directing the respondents to terminate services of the applicant only after following the due process of law, at that time it was not envisaged that the regular incumbent of the post may be required to come back. This is only

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a subsequent development and the regular incumbent came back in pursuance of the directions of this Tribunal, ~~an~~ passed in OA No. 72/94 dated 11.2.2000 i.e. 6 years after the order passed in OA No. 149/93. The earlier order of the Tribunal had been duly carried out and the ~~impugned~~ order is in the face of the later order of the Tribunal, which necessarily had to be complied with. The provisions of Rule 6 of EDA Conduct & Service Rules, have no applicability in this case.

This OA has absolutely no merits and is accordingly dismissed. No order as to costs.


(A. P. NAGRATH)
MEMBER (A)


(JUSTICE O. P. GARG)
VICE CHAIRMAN