

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A.NO.872/1997

Date of Order: 05.10.2004

PRESENT: HON'BLE MR. SARWESHWAR JHA, MEMBER (A)
HON'BLE MR. M.K. GUPTA, MEMBER (J)

Arun Chandra Das, son of Late
Sri Surendra Nath Das,
Residing at Plot No.5/565,
Kataganj, Dist. Nadia and
Working for gain as E.D. Packer in Kalyani
Sub Post Office, Kalyani,
Dist. Nadia

..... Applicant

Versus

1. Union of India, service through
The Secretary, Ministry of Communication,
Deptt. of Post, Dak Bhavan,
Parliament Street, New Delhi - 1
2. Chief Post Master General, West Bengal
Circle, Yogayog Bhawan,
C. R. Avenue,
Calcutta - 700 012
3. Director of Postal Services,
Calcutta Region, C.R. Avenue,
Calcutta - 700 012
4. Superintendent of Post offices,
Nadia South Division, Dist. Nadia
5. Sub-Postmaster (LSG), Kalyani-741 235
Dist. Nadia
6. Pradip Kumar Pramanick,
S/o Late Sri Nanda Kr. Parmanic,
B-9, 208, Kalyani, Nadia,
P.S. Kalyani

..... Respondents

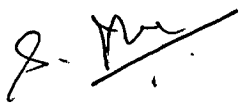
Present for Applicant : Mr. S. Panda, Counsel

Present for Respondents : Mr. S.P. Kar, Counsel

O R D E R


PER SARWESHWAR JHA, A.M :

The applicant has assailed the order of the respondents dated 25.07.1997 whereby the services of the applicant as Extra-Departmental Packer (ED Packer) of Kalyani Sub-Post Office have been terminated. He has prayed that the respondents be directed to allow him to discharge his duties and functions as ED Packer in the said Sub-Post Office as before.



2. The facts of the matter, briefly, are that the applicant was appointed provisionally as ED Packer in the said Sub-Post Office vide the letter of appointment as issued by the respondents dated 01.03.1984 after having been selected by them following due process of selection and after having been sponsored by the Employment Exchange in response to the requisition of the respondents. A reference has also been made to the provision made in the letter of appointment that his appointment 'shall be in the nature of contract liable to be terminated by him or the authority by noticing the other in writing and that he shall also be governed by P&T EDA's (Conduct & Service) Rules, 1964, as amended from time to time. He joined the post of ED Packer on 01.03.1984 itself (A/1). He had been discharging his duties and functions of the said post sincerely and efficiently to the entire satisfaction of the authorities concerned without any complaint whatsoever from any quarter and that his service record has been clean and unblemished, as claimed by him. He has submitted that no charge sheet or departmental proceeding was ever served on him or initiated against him, as the case may be, during his entire service till today.

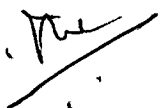
3. On perusal of the facts of the case, it is observed that the services of the applicant appear to have been terminated due to the fact that one Pradip Kumar Pramanik, an erstwhile ED Packer of the said Sub-Post Office had filed OA No.466/1992 before this Tribunal against the order of termination of his services and the Tribunal allowed the said OA, quashing and setting aside the impugned order/decision of the respondents terminating his services and giving the reasons for reinstatement of the applicant w.e.f. 01.04.1984. The directions of the Tribunal in the said OA also envisaged that

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the period in respect of the applicant therein from 01.04.1984 to date would be properly treated by the respondents as per rules.

4. The applicant in the present OA has alleged that he was not made a party to the said OA and thereby he was debarred from saying anything in that OA, even though he was vitally interested in the case. He had also alleged that the respondents were corresponding on the subject among themselves for quite some time and that he had no hand or he was not at fault in the matter of his appointment. A representation was submitted by him to the authorities concerned on 02.05.1997 stating the entire facts and circumstances of the case and praying for not terminating his services, adhering to the rules and/or procedure (A/3).

5. Earlier, when he was faced with the threat of his services being terminated in order to accommodate Shri Pradip Kumar Pramanick in pursuance of the decisions in OA No.466 of 1992, he had filed OA No.729 of 1997 before this Tribunal. The said OA was disposed of at the admission stage itself as having become infructuous for the reasons that the order terminating the services of the applicant had already been passed by the respondents on 25.7.1997 when the said OA was pending adjudication before the Tribunal and also that the applicant had, in the meantime, filed the present OA, namely, OA No.872/1997 against the termination of his services. However, with his services having been terminated vide the order of the respondents dated 25.7.1997, which has not been served upon him till today, as claimed by him, and which has not been given effect to and as a result, he has been discharging his duties and functions of the post till date and no one has come in his place so far, he is faced with a quandary in the shape of the

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impugned order of termination of his services and accordingly has filed the present OA seeking relief as mentioned in paragraph 8 of the OA as well as seeking staying of the operation of the said impugned order.

6. The applicant has also prayed that the said Pradip Kumar Pramanick, the applicant in OA No.466/1992, may be posted in any other place by giving effect to the order dated 28.10.1997 as passed by the Tribunal and that the said order may not be effected by replacing him from the present post, as it is not his fault and that he had been selected by the Selection Committee after being duly sponsored by the Employment Exchange and has been continuing in the post since 1984 and also as he had not been made a party to the OA as filed by Shri Pramanick.

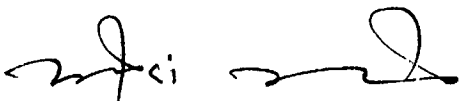
7. The respondents, in their reply, have confirmed most of the submissions as made by the applicant and it is quite apparent that they had to issue the impugned order terminating the services of the applicant in compliance with the orders of the Tribunal in OA No. 466/1992 as decided on 25.03.1997. It is also observed that the applicant was not made a party to the said OA and, therefore, he was not afforded an opportunity to present his position before the said OA was decided. As he was a vital party and whose interests were likely to be affected adversely in the event of the applicant in the said OA getting favourable order, it was quite indispensable that the applicant in the present OA should have been made a party to the OA as filed by Shri Pramanick. Being not in a position to seek review of the order or to seek recall of the order being not a party to the said case, he has taken the recourse to filing this OA and made a prayer that he may be allowed to continue in the post, duties of which he has been performing during the last more than 14 years at the time of filing the OA. The respondents have also confirmed that the applicant has been

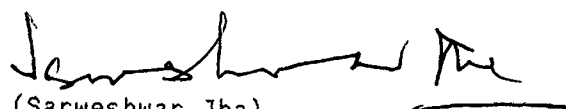
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relieved of the post of ED Packer on 26.07.1997 and that Shri Pradip Kumar Parmanick has assumed the charge of the post on the same date.

8. During the course of argument, it has been submitted by the learned counsel for the applicant that there are a number of vacancies in the post of ED Packer under the Division and that the applicant could be considered for posting against one of those vacancies in view of the fact that he had been duly selected for appointment to the said post at Sub-Post Office Kalyani and in which he has rendered about 14 years of satisfactory service. He has also submitted that there is a provision for giving alternative post to a person who has rendered not less than three years of service to the Department.

9. Having regard to the above and also the fact that the applicant had not been made a party in OA No.466/1992 in which his interests were vitally involved and also that he had been duly selected by the respondents against the post of ED Packer, Kalyani Sub-Post Office and also that he has rendered 14 years of service ~~to~~ the satisfaction of the respondents, we are of the considered view that the ends of justice shall be met if this OA is disposed of with a direction to the respondents to consider the applicant for posting as ED Packer against one of the vacancies in the post under the Division with reference to relevant rules on the subject. Ordered accordingly. The respondents are also directed to ensure that the above directions are ~~complied~~ ^{with} within a period of three months from the date of receipt of a copy of this Order. No costs.


(Mukesh Kumar Gupta)
Member (J)


(Sarweshwar Jha)
Member (A)

/pkr/