

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

OA No.918/97

Present : Hon'ble Mr.B.N. Som, Vice-Chairman
Hon'ble Mr.B.V. Rao, Member(J)

Sukanta Ghosh

-Vs-

- 1) Union of India, Service through the Secretary, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi-1
- 2) Chief Postmaster General, West Bengal Circle, Yogayog Bhawan, C.R. Avenue, Calcutta -12
- 3) Superintendent of Post Offices
- 4) Sub Dvl. Inspector(Postal), Bangaon Sub Dn. P.O. Bongaon
- 5) Shri Mrityunjay Chakraborty, Nataberia, 24 Parganas (N)

For the applicant : Mr.S.K. Dutta, Counsel

For the respondents : Mr.B.Mukherjee, Counsel

Date of Order : 20/6/97

ORDER

Mr.B.V. Rao, JM

Shri Sukanta Ghosh has filed this OA claiming the following reliefs:

- a) To direct the respondents to cancel, withdraw, and/or rescind the impugned order dated 18-6-97, being Annexure A4 hereof.
- b) To direct the respondents to allow the applicant to discharge the duties and functions, attached to the said post of EDMP, and absorb the applicant on regular basis with proper pay scale.
- c) To direct the respondents to deal with and/or dispose of the representation dated 23-6-97.

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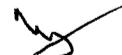
d) To direct the respondents to process the entire records of the case before this Tribunal for adjudication of the points at issue.

2. The brief facts of the case according to the applicant is that he was appointed as daily rated mazdoor by the respondent No.3 vide order dated 20-9-96 and after joining the said post he was advised vide letter dated 1-4-97 to submit the application in the prescribed form duly filled in and also to submit the original document/certificates in support of his date of birth, educational qualification, Employment Exchange Card, residential certificate granted by the Prodhān, Caste Certificate etc. on or before 14-4-97 to the respondent No.4, which the applicant duly complied with. The applicant further states that though he was given appointment as daily rated mazdoor, but in fact he was entrusted with the job of EDMP and he was being paid @Rs20/- per day, which is not even the minimum wages prescribed under the Act. He further states that since his joining he had been discharging the duties and functions attached to the said post of EDMP at Nataberia BO and instead of giving him regular appointment as EDMP, the respondents passed an order dated 18-6-97 with memo dated 21-6-97 of BPM Nataberia stating that the daily rated mazdoor should be changed immediately if the same man is working in place of EDMP. In pursuance of the said order, the BPM Nataberia advised him to handover the charge as soon as the new incumbent joins the said post of EDMP. The applicant further states that the action on the part of the statutory authorities to terminate the service of the applicant by a stroke of pen is wholly bad in law and without jurisdiction besides being violative of the principles of natural justice as also the principles of enshrined under Articles 14, 21 and 300 A of the Constitution of India. On receipt

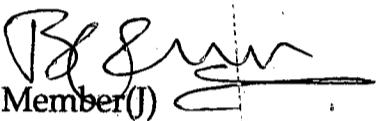


of the memo dated 21-6-97, the applicant made a representation dated 23-6-97 to the authorities praying to allow him to continue as such and to give him a regular appointment to the said post of EDMP. As there is no positive response from the respondents, the applicant filed this OA to ventilate his grievance.

3. The respondents contested the matter by filing reply stating that owing to promotion of Shri Kishore Kumar Ghosh, permanent incumbent to the post of EDMP, Nataberia BO in account with Helencha Colony S.O. the said EDMP post had fallen vacant on 20-9-96. The SDI(P) Bongaon Sub-Dn. issued a letter dated 29-9-96 addressed to Kishore Kr. Ghosh, endorsing a copy to BPM, Nataberia BO with the direction to engage a hire mazdoor on the risk and responsibility of the BPM to pull up the work of EDMP after relieving Shri Ghosh and the Officer of the Employment Exchange, Bongaon Sub-Dn. was requested to sponsor the name of the candidates for the same post by recruiting authority on 24-2-97. A list of 19 candidates, including the name of the applicant was sent by the Employment Officer, Bongaon vide letter dated 25-3-97. All the candidates were asked to attend the Office of the SDI(P) Bongaon Sub Dn. for bio-data verification on 14-4-97 and 15-4-97 and Shri Mrityunjay Chakraborty has been selected for the said post. The further contention of the respondents is that as per ED Recruitment Rule no weightage should be given to any person who acquired little knowledge previously on Postal work. Further, no appointment letter was issued to the applicant in the said post so the joining date 24-9-96 as stated by the applicant does not arise. In view of the facts stated in the reply the applicant is not entitled to claim anything and the application is not maintainable either under law or facts. Hence, respondents prayed to dismiss the same with costs.



4. Heard both parties.
5. The learned counsel for the applicant has reiterated the facts of the case and prayed to grant relief to the applicant as prayed in the application.
6. Per contra the learned counsel for the respondents strongly opposed the submissions and argued that the application is not maintainable either under law and being daily rated mazdoor the applicant has no legal right whatsoever to claim for absorption or recruitment in the post of EDMP.
7. Having heard both sides and after considering the submissions and pleadings of both the parties, we find no merit in the application. Hence, the same is dismissed being devoid of merit. There is no order as to costs.


Member(J)


Vice-Chairman