

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 297/2008

This the ^{16th} day of November, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)

Hon'ble Dr. A.K. Mishra, Member (A)

Ganga Prasad Dubey aged about 40 years son of Sri Ram Dev Dubey, resident of Village- Jhaliyajawa, Post- Khapradeeh, Police Station- Haiderganj, District- Faizabad.

Applicant

By Advocate: Sri A. Tiwari

Versus

1. Union of India through its Secretary, Ministry of Communication (Department of Posts), New Delhi.
2. Senior Superintendent of Post Offices, District- Faizabad.
3. Assistant Superintendent of Post Offices, Khapradeeh, Faizabad (East).
4. Sub Divisional Inspector (Post), Faizabad (East) Sub Division, Faizabad.

Respondents

By Advocate: Sri S.K. Awasthi

(ORDER)

Hon'ble Ms. Sadhna Srivastava, Member (J)

The applicant has sought two reliefs in this application, firstly a direction to the respondents to absorb him on regular Group 'D' post and secondly to pay arrears of allowances for the period 1.10.2003 to 21.10.2003 during which he worked as Extra Departmental Runner (EDR) in Branch Post Office Dahema, District- Faizabad.

2. The facts are that the applicant was engaged as Runner or delivery agent or mail carrier intermittently during the period 4.4.2003 to 8.3.2006. His grievance is that he had worked to the satisfaction of his superiors but still he has not been absorbed on regular Group 'D' post while some others working as substitute have been appointed on group 'D' posts. The applicant has also claimed allowances for the period 1.10.2003 to 21.10.2003 on the ground that he had worked as EDR during the said period.



3. Heard the learned counsel for parties and perused the record.

4. We may mention at the outset that the Tribunal is not a recruitment agency nor it looks after recruitment to the vacant post. The Tribunal only adjudicates the legal rights of an employee vis-à-vis the employer i.e. Central Government. The applicant himself admits (referred to para 6 of Rejoinder Reply) that he was engaged as substitute. The respondents have also pleaded that the applicant was engaged as substitute. Thus the applicant's engagement was dehors the rules. He was not appointed as a regular ED agent under the statutory rules. By now, it is well settled law as laid down by the Apex Court in the case of **Secretary, State of Karnataka and others Vs. Umadevi (3) and others (2006) 4 SCC page 1** that adhoc or temporary employee has no legal right for regular appointment or absorption.

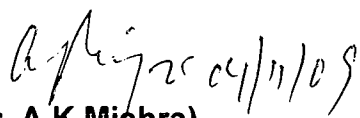
5. It has been alleged by the applicant that some of his juniors working as substitute have been regularized by the Department. However, no order of regularization is available on record. The only documents available on record are at Annexure RA-5 and RA-6. These are the appointment letters of Ramesh Singh and Samarjeet Verma providing them appointment as GDS/MC. The above said persons have been appointed after due process of selection. The respondents have clearly pleaded in the counter reply that no substitute has ever been regularized because under the rules, there is no provision for regularization of substitutes. If substitutes apply for appointment as ED employee on regular basis, he can be considered along with other candidates. The applicant is always at liberty to be ^{on} ^{of} look out for the advertisement of the vacancy and participate in the



selection on merits. We cannot order for back door entry only on the ground that he had worked as substitute for some time.

6. As regards the claim for allowances, the applicant has filed charge report as contained in Annexure -3. It shows that the applicant had worked as runner at Dahema Branch Post Office, District-Faizabad for a period 1.10.2003 to 21.10.2003 and handed over the charge on 22.10.2003, the respondents have failed to explain as to why the applicant was not entitled for allowances from 1.10.2003 to 21.10.2003 in the light of the aforesaid handing over charge report on 22.10.2003. Consequently, we are of the opinion that the applicant is entitled for allowances for 21 days as claimed.

7. The O.A. is partly allowed. The claim for regularization made by the applicant is rejected. The claim for payment of allowances for 21 days (1.10.2003 to 21.10.2003) is allowed. The respondents are directed to pay allowances for 21 days to the applicant within a period of 2 months. With this direction, the O.A. is partly allowed. No costs.


(Dr. A.K. Mishra)
Member (A)


(Ms. Sadhna Srivastava)
Member (J)

HLS/-