

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**Reserved on 16.07.2014
Pronounced on 24-07-2014.**

Original Application No.386/2010

**Hon'ble Mr. Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)**

Rajeev Kumar aged about 42 years son of Shri Shiv Govind Tiwari R/o Parewa Jal PO Sidhauli District Sitapur.

-Applicant.

By Advocate: Sri R.S. Gupta.

Versus.

1. Union of India through the Secretary, Department of Post, Dak Bhawan, New Delhi.
2. CPMG U.P., Lucknow.
3. Supdt. Post Offices, Sitapur.

-Respondents

By Advocate: Sri G.K. Singh.

O R D E R

By Ms. Jayati Chandra, Member (A).

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 seeking the following relief(s):-

(a) *That this Hon'ble Tribunal may kindly be pleased to direct the OPs especially OP No.3 to consider case of the applicant in terms of contents of Annexure No.A-4, A-5 and A-6 and appoint him at the post of GDSBPM Parwaa Jal by giving weightage of experience.*

(b). *Any other relief as may be found just may also be allowed in favour of applicant alongwith cost of OA."*

J. Chandra

2. The facts of the case as averred by the applicant are that the respondents had invited applications for the post of EDBPM, Parewa Jal, District Sitapur vide advertisement dated 02.07.2010 (Annexure-1) and the applicant applied by his application dated 26.7.2010 for the aforesaid post. He had worked as ED Agent from 24.3.1988 to 28.4.1992 except for technical breaks of short periods. Thus, he has all the qualifications as required under the advertisement at Point No.1 to 6 of the said advertisement. Additionally, he has due experience as ED Agent. Instead of regularizing his case as per policy, the respondents proceeded to invite applications from the open market. The respondents have further given appointment to one Sri Ghanshyam Pandey as EDBPM with lesser working experience than the applicant on (the date is unreadable).

3. The respondents filed their reply denying the claim of the applicant stating that the applicant had working experience as substitute for short spells between the periods 24.3.1988 to 28.4.1992. By his own admission he has not worked for the last 18 years in the respondents department. There is no rule for given weightage to the substitutes in the matter of appointment. The decision of the larger Bench of CAT Bangalore and the judgment of the larger Bench of Hon'ble High Court of Karnataka, Bangalore clearly reiterated the position that substitutes have no legal right as far as regularization in the department is concerned. The post of EDBPM Parewa Jal, Sitapur has been filed up by Sri Ghanshyam Pandey, who is retrenched employee of G.P.O., Lucknow. His case was considered in the light

T. Chandra

of D.G. Posts Letter No. Com.No.17-141/88 EDC & TRG dt.6.6.88 and CPMG-UP, Circle, Lucknow letter No.Rectt./Faizabad/ Misc.98/9LW dt.2.11.99. The applicant is not a similarly situated person deserving similar treatment in the matter of employment. Further, the applicant has not implemented the said Sri. Ghanshyam Pandey as a respondent in this O.A.. Therefore, the OA is liable to be dismissed on this ground alone.

4. The applicant has filed his Rejoinder Affidavit stating more or less same things as earlier stated by him in his OA. He has further stated that Sri Ghanshyam Pandey had only worked for one month.

5. We have heard the learned counsel for both the parties and perused the entire material available on record.

6. The entire OA suffers from a serious lacuna that applicant seeks his appointment against the vacancy of EDBPM at Parewa Jal, District Sitapur which has been since filed up by one Sri Ghanshyam Pandey. The applicant has failed to implead the said Sri Ghanshyam Pandey either in the OA. Even after the flaw was pointed out by the respondents in their reply, the applicant failed to move any impleadment application. This is a serious lacuna and no order in favour of the applicant can therefore be passed ex-party against Sri Ghanshyam Pandey. Coming to the merits of the case, while the applicant has sought to establish his suitability for the post advertised by filing copies of his mark sheet,

J. Chandra

experience certificate etc., he has failed to prove his parity with Shri Ghanshyam Pandey. Neither is he able to quote any rule in his favour to establish that he deserves higher consideration.

7. In view of the above discussions, the applicant has failed to make out a case in his favour and the OA is liable to be dismissed and is accordingly dismissed. No order as to costs.

J. Chandra

(Ms. Jayati Chandra)

Member (A)

U. R. Agrawal

(Navneet Kumar)

Member (J)

Amit/-