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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

O.A.No.477 of 1990.

Banshi Dhar PandeyApplicant.

Versus

Union of India & others Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Chavva, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

This is a second original application filed by the applicant. The earlier one was allowed by the tribunal but as the applicant was again replaced by another person, he has approached the tribunal praying relief against the same.

2 . The applicant was engaged as a substitute Extra Departmental Mail Peon in the month of July, 1987 on adhoc basis pending selection and appointment of a candidate drawn from the Employment Exchange on regular basis. A requisition was sent to the Employment Exchange and thereafter names of six candidates were sponsored and the candidates were required to submit their proforma which they did. According to the applicant his application was wrongly withheld and was delivered to the Assistant Superintendent of Post Offices after due date and a fraud was committed with the result that a charge-sheet was given to another person. One Devi Prasad Dubey was wrongly appointed at the instance of Secretary of Bhartiya Dak Karmachari Union. As the applicant was earlier appointed but aforesaid D.P. Dubey was treated to be appointed. On giving charge to him, the applicant approached the tribunal and the tribunal found the applicant's appointment valid. According to the applicant, notwithstanding the fact that he is going to the office daily but the work was not given

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to him in collusion with others and that is why he is contending that the order passed by this tribunal has not been complied with..

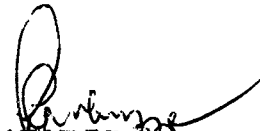
3. It is not necessary to refer the past history. But the case of the respondents is that the applicant was allowed to assume the charge of Extra Departmental Mail Peon on 25.10.89 but he did not perform the work and he himself gave the news in Amethi Samachar that he did not perform the work of Extra Departmental Mail Peon, Kuchmuch. Since the regular incumbent Shri Gaya Prasad Gupta, who was looking after the charge of Extra Departmental Mail Peon, Kuchmuch against the vacancy which was caused due to order of put off, had made several applications for his coming back to the post of E.D.M.P which post the applicant was holding temporarily and on 20.3.90, the Director Postal Services agreed with the request of Gaya Prasad Gupta and directed to the Superintendent of Post Offices i.e. the respondent no.3 to cancel the appointment of the applicant and allow Gaya Prasad Gupta to continue on the said post and he was consequently allowed to join and at that time, Shri Devi Prasad Dubey was working as a Substitute from whom he took the charge. It is true that applicant's appointment was earlier held valid but the facts, as stated above, disclose that as a matter of fact the post was not vacant. As the previous incumbent was still claiming the post and the department was interested in removing the applicant, that is why the previous incumbent was asked to come back and when the previous incumbent had taken over later on, in natural course, the applicant should go down and that is why his appointment was made temporary. Accordingly, the respondents are directed to consider the case of the applicant

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for appointment as and when the vacancy occurs and he shall be given preference and priority in view of the fact that he was appointed and he worked on adhoc basis. With these observations, the applicant stands disposed of. No order as to costs.


MEMBER (??)



VICE CHAIRMAN.

DATED : NOVEMBER 19, 1992

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