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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 187 of 1992

Naresh Kumar Rastogi . . . . . Applicant

Versus

Union of India and others . . . . . Respondents

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

Hon'ble Mr. K. Ojaya, Member (A)

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

As the pleadings are complete and the case is being disposed of finally.

2. The applicant who was working as a substitute from the year 19.5.1986 as Extra Departmental Packer has approached the tribunal against his discharge praying that the order of termination said to be dated 11.4.92 may be quashed and his services may be regularised and the cut off date of 5.2.1986, as provided in the instructions dated 27.12.1990 be declared as ultra vires. To which the reference has been made by the applicant, annexure-10 which indicates regarding the engagement of persons to work as substitutes. It was issued in the year 1990 and it provides that the employment of substitutes was permissible in special circumstances and if practice is continuing, it should be discontinued and if, there are existing substitutes against postman vacancies or Group D vacancies who were on the rolls on 5.2.1986 and has put in 240 days of service in a year on that date, they should not be discharged.

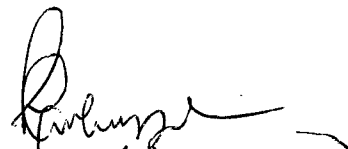
3. From the facts it appears that earlier the packer was Sri Faiyaz Ahmad who applied for permission to work as outsider Postman in Lucknow G.P.O. He was allowed to work as outsider Postman in Lucknow G.P.O. vide order

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dated 19.5.1986. It is he who engaged the applicant as a substitute on 19.5.1986 on his risk & his responsibility for which the provisions having been made in the departmental instruction on appointment of regular postman. The ~~xxxxxxx~~ postman who has passed the departmental examination for the postman and the said Faiyaz Ahmad was relieved from G.P.O. Lucknow and joined his duty in Extra Departmental Packer at Chandganj on 11.4.1992 and that is why the applicant seeks to work in the Extra Departmental Packer. The post of Extra Departmental Packer was not vacant, as the previous incumbent who was only working against the post. He was neither a regular postman and nor was he regularised. Unless the post was ~~not~~ vacant, the applicant has no right to claim the post. If the previous incumbent came back, the applicant was rightly terminated, who was appointed by the previous incumbent on his own responsibility. So far as the cut off date is concerned, the respondents ~~were~~ within their right to put a particular date as a cut off date, although without entering into the reasons that the same is valid, suffice it to say, the applicant who has no right to the post, can not challenge it. With these observations, the application is dismissed. That the applicant has worked for several years on the said post and accordingly his case for appointment against the said vacancy existing near about may be considered favourably and he may be given preference over any new comer. No order as to costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated 19.11.1992  
(RKA)