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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 398 of 1992

Sanjai Kumar Shukla Applicant

Versus

Union of India & Others Respondents

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

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

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

The applicant who was appointed as Substitute Extra Departmental Stamp Vendor in Dilkusha Post Office Lucknow, was deployed to work as Outsider postman, he engaged the applicant on 11.3.1991 to work in his place as his substitute on his risk and responsibility. The said Uma Shanker Awasthi was relieved from the post of Outsider postman, he joined his post of Extra Departmental Stamp Vendor on 6.7.1992 thereby relieved his substitute. Thus, the applicant worked as a Substitute of said Uma Shanker Awasthi more than 1 year on the risk and responsibility of said Uma Shanker Awasthi. He was allowed to continue meaning thereby, his appointment was duly recognised by the department itself. The said Uma Shanker Awasthi passed the departmental examination for postman and was ordered to be relieved immediately to enable him to join the training on 3.8.1992 i.e. within a month ^{of the} ~~xxxxxx~~ relieving ~~xxxxxx~~ of the applicant from the said post. One Sarwan Kumar, E.D. Stamp Vendor, was ordered to relieve sri Uma Shanker Awasthi and work on the post of E.D. Stamp Vendor, Dilkusha. Sri Sarwan Kumar was asked to provide his substitute for the post E.D. Stamp Vendor, and as the Sarwan Kumar failed to join at Dilkusha Post Office, the Sub Postmaster, Dilkusha Post Office relieved sri Uma Shanker Awasthi for

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training. Sri Uma Shanker Awasthi provided Gushil Kumar Awasthi to work as a substitute in his place on his risk and responsibility. Feeling aggrieved against the same, the applicant has approached the tribunal claiming his right for regularisation and the benefits of the Industrial Disputes Act and also the departmental circular.

2. The respondents have opposed the claim of the applicant and have stated that it was for the Uma Shanker Awasthi to provide for a substitute and he has provided yet another substitute. Undoubtedly, the name of the applicant has not been sponsored by the employment exchange that is why he could not have been given appointment. It has not been stated by the respondents that the name of Gushil Kumar Awasthi has been sponsored by the employment exchange and that's why appointment has been given to him. In the departmental instructions it has been provided that who has worked more than one year his case is to be given re-consideration. Of course, in case, the department could have given an appointment, the case of the applicant would deserve for consideration, but it appears that the department allowed Uma Shanker Awasthi only for a few days and in the meantime, this was done and allowed him to nominate another person, instead of accepting the nomination the department could have considered the case of the applicant who has already gained experience for one year to work as such till regular appointment was made. As far as sponsoring the name of the applicant from employment exchange, undoubtedly, under the Act, the name of the persons

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