

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH: PAINA

Registration No. OA-88 of 1996

(Date of order 4.9.1998)

Versus

1. Union of India through the Secretary, Ministry of Communications, Department of Posts Cum Director General, Department of Posts, India, Dak Bhawan, New Delhi-110001.
 2. The Chief Post Master General, Bihar Circle, Patna-800 001.
 3. The Regional Director of Post Offices, Ranchi (Bihar) At Present Post Master General, South Region, Ranchi.
 4. The Superintendent of Post Offices, Bhagalpur Division, Bhagalpur.
 5. Sri Anant Tewary, Post Master, Bhagalpur Head Post Office, Bhagalpur.
 6. Sri Gangadhar Ojha, Resident of village Siuari, Amarpur, P.O & P.S. Amarpur, District Banka at present E.D. Stam vendor at Bhagalpur Head Post Office.

..... Respondents
By Sr. Standing Counsel, Mr. J.N.Pandey.

Coram: Hon'ble Mr. Justice V.N.Mehrotra, vice-Chairman
Hon'ble Mr. L.R.K.Prasad, Member (Administrative)

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O R D E R

Hon'ble Mr. Justice v.N.Mehrotra, v.C.

This OA has been filed by the applicant praying for appointment or reinstatement of the applicant and continuation of his service permanently on the post of E.D. Stamp vendor at Bhagalpur Head Post Office be ordered with retrospective effect with effect from the month of August, 1995. The applicant has also prayed for payment of his salary with effect from August, 1995.

2. The applicant has alleged that he was appointed as E.D. Stamp vendor in place of Shri Rasik Lal Mandal at Bhagalpur Head Post Office with effect from 4.5.1983. He has been working on the post from 4.5.1983 to 5.8.1995. He has asserted that Rasik Lal Mandal had been working as Postman at Bhagalpur and the post of E.D. Stamp vendor is vacant. It is claimed that the ~~applicant~~ applicant has satisfactorily worked as E.D. Stamp vendor for 12 years but after Shri Anant Tewary joined as Postmaster, Bhagalpur Head Post Office, he appointed his own Sala (Brother-in-law) viz; Gangadhar Ojha on 30.5.1995 as E.D. Stamp vendor. It is claimed that the Postmaster forced and compelled Rasik Lal Mandal to sign an application in order to appoint Gangadhar Ojha. It is further claimed that the applicant moved applications before the authorities concerned for reinstating him but no action has been taken. It is on these grounds claimed that it should be directed that the applicant should be appointed as E.D. Stamp vendor.

3. The respondents have filed the written statement alleging that the applicant was never appointed as E.D. Stamp vendor. It is claimed that Rasik Lal Mandal was the E.D. Stamp vendor and when he was directed to work as Postman, Bhagalpur Head Post Office on ad hoc basis, he provided the applicant as his substitute. The applicant continued to work

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merely as a substitute provided by Rasik Lal Mandal. It has been further claimed that Rasik Lal Mandal was still working as Postman on ad hoc basis and he has not been regularly appointed on that post so there was no vacancy on the post of E.D. Stamp vendor. The respondents have further mentioned that Rasik Lal Mandal resumed his regular post of E.D. Stamp vendor on 7.8.1995 and on that date the applicant, who was working as substitute was automatically removed. Rasik Lal Mandal was again appointed as Postman on ad hoc basis on 16.8.1995 and he provided Gangadhar Ojha as his substitute to work on the post of E.D. Stamp vendor which was approved by the Postmaster according to the rules. It is then mentioned that Rasik Lal Mandal did not appoint the applicant as a substitute on 16.8.1995 and so the applicant has no right to claim that he could continue on that post. Respondents have denied that Gangadhar Ojha was the brother-in-law of the Postmaster.

4. The applicant has filed rejoinder in which it has been mentioned that Gangadhar Ojha, respondent no.6 was the brother-in-law (Sala) of the brother of the Postmaster. It has also been asserted that Rasik Lal Mandal was forced to nominate Gangadhar Ojha as his substitute.

5. We have heard the learned counsel for the parties and have examined the material on record. In the OA the applicant has asserted that he was appointed as E.D. Stamp vendor on 4.5.1983. This assertion has been denied by the respondents according to whom the applicant was appointed as a substitute when a regular incumbent, Rasik Lal Mandal was appointed as Postman on adhoc basis. The contention of the respondents is supported by the documents filed by the applicant himself. These documents which are at pages 25 to 60 clearly show that for various periods from 4.5.1983 the applicant has been appointed as substitute for Rasik Lal Mandal on the post of E.D. Stamp Vendor. It also appears that

Verdict

Rasik Lal Mandal had worked as Postman for various periods on ad hoc basis and during his absence the applicant worked as his substitute as he had been sonnominated by Rasik Lal Mandal. Thus the contention of the applicant that he was appointed as E.D. Stamp vendor was wrong.

6. The Conduct & Service Rules applicable to E.D. Agents provide that in case of leave or absence of the E.D. Agent the person nominated by him and approved by the Postmaster would work as substitute for him. It has also been provided that the E.D. Agent would be responsible for all the acts of the substitute. So a substitute has to be a person on whom the E.D. Agent has confidence. The substitute himself cannot assert that he should be continued as a substitute even if the E.D. Agent does not so nominate him for some reason or the other. It is true that the applicant has worked as substitute on the post of E.D. Stamp vendor for various periods between 4.5.1983 to 5.8.1995 but merely due to this reason he cannot claim any right to continue as a substitute or as E.D. Stamp vendor. In the present case Rasik Lal Mandal who is still holding the post of E.D. Stamp vendor has not been regularly appointed as Postman and has not nominated the applicant as his substitute for the post of E.D. Stamp vendor. He has instead provided Gangadhar Ojha as his substitute as will appear from the document dated 26.8.1995 (page 54 of the OA).

7. The applicant has asserted that Rasik Lal Mandal was forced by the Postmaster to sign an application for providing Gangadhar Ojha as his substitute. There is, however, no material to support this fact. Rasik Lal Mandal has not made any complaint on this point. In case he was aggrieved, he could have written to the authorities concerned for change of substitute but there is nothing to indicate that he has done so. In these circumstances the applicant has no right

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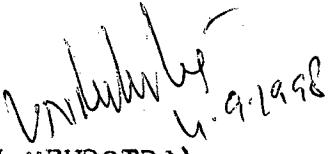
to claim that he should be appointed as E.D. Stamp Vendor or even a substitute to the regular incumbent Rasik Lal Mandal. The OA thus has no force and is liable to be dismissed.

8. For the reasons mentioned above, the OA is dismissed. No order as to costs.

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4.9.98
(L.R.K. PRASAD)

MEMBER (A)


4.9.98
(V.N. MEHROTRA)

VICE-CHAIRMAN