

CENTRAL ADMINISTRATIVE TRIBUNAL**PATNA BENCH, PATNA**
OA No. 175 of 2006

Date of order : 2nd July, 2007

C O R A M

Hon'ble Mr. Justice P.K.Sinha, Vice-Chairman
Hon'ble Mr. S.N.P.N.Sinha, Member[Admin.]

Arya Putra Manjhi son of late Nagina Manjhi, Village – Samhota,
P.O. - Kopa, P.S. - Kopa, District – Saran [Chapra].

..... **Applicant**

Vrs.

1. The Union of India through the Secretary cum D.G., Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Director of Postal Services, O/o the Chief Postmaster General, Bihar Circle, Patna.
4. The Sub Divisional Inspector of Post Offices, Postmaster, Islampur Sub Post Office, Nalanda Division, Biharsharif.

..... **Respondents**

Counsel for the applicant : Shri J.K.Karn

Counsel for the respondents : Shri S.K.Singh

O R D E R [ORAL]

Justice P.K.Sinha, Vice-Chairman :-

Since the pleadings are complete, with agreement of the ld. counsels



of both sides, this matter has been heard and, under the circumstances of the case, is being disposed of at this stage of admission.

2. Admittedly, one Devendra Sah was EDDA Bishun Pura Kala BO in a/c with Ekma SO who was put off duty pending finalization of disciplinary proceeding and Judicial proceeding against him for which reason a need arose to engage a person to look after the work of EDDA, Bishun Pura Kala BO by making provisional appointment. The applicant, therefore, was selected for such provisional appointment and offer of appointment as at Annexure-A/1 dated 24.5.1999 was issued making it clear that the appointment was tenable till the disciplinary proceeding and judicial proceeding against Devendra Sah were finally disposed of and the exhausted
applicant has ~~.....~~ all the trammels of departmental and judicial appeals. The appointment was provisional with clear condition that if ever it is decided to take Devendra Sah back into service, the provisional appointment would be terminated without notice. The appointing authority also reserved right to terminate provisional appointment at any time before the period mentioned in para 2 of the offer of appointment.

3. The applicant took charge of the office on 24.5.1999 and continued working as such. However, he was relieved of his job w.e.f. 24.11.2005 vice Annexure -A/3. Admittedly, this was done as the original incumbent to

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the post was allowed to join his post as the charges had not been proved against him.

4. The ld. counsel for the applicant submits that this way the applicant had worked for more than six years on the post though provisionally, hence he, belonging to scheduled caste, is fit to be considered for being given alternative appointment as ED Agent vide circular of Director General, P&T bearing No.43-4/77-Pen., dated 23.2.1979 and circular no. 19-34/99-ED & Trg. dated 30th December, 1999. This circular is kept at Annexure-A/4. It may be noted here that the prayer is also to issue direction to the respondents to accommodate the applicant by appointing him to the post of GDSMD Cum MC at Terwa Pojhia Branch Post Office in West Sub Divisional, Chpara at the earliest with continuity of service and with back wages.

5. The aforesaid circular letter dated 18.5.1979 at Annexure-A/4 deals with the subject of provisional appointment of ED Agents. Para 2 of this runs as follows :-

“Efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge they had put in not less than three years continuous approved service. In such cases, their names should



be included in the waiting list of ED Agents discharged from service".

6. How the names of such surplus ED Agents should be kept in waiting list has been clarified in the circulars letter of DG, P&T bearing no. 43-4/77-Pen., dated 23.2.1979, a copy of which may be seen at Annexure-A/5. It has been clarified that the name of such surplus/displaced ED Agents should be kept on the waiting list for one year. It has further been clarified that if an ED Agent refuses to accept the offer of alternative employment which is at the same station or in the neighbourhood, his name should not be kept in the waiting list. It is further provided that if the post offered is at a place away from his place of residence, his name should be kept/continue to be kept in the waiting list. It is also provided that if a surplus ED Agent is not absorbed in another post within one year, the name should be removed from the list.

7. It is interesting to note that the applicant in para 4.6 of his O.A. has referred to Annexure-A/4 and A/5 and in para 4.7, and has intimated that he had filed representation before the respondents for his alternative appointment as GDSMD Cum MC at Terwa Pojhia Post Office but no response has yet come. Para 4.6 of the O.A. is replied to in para 11 in which it has only been mentioned that the conditions of service made it clear to the applicant that



the provisional appointment was to continue till Devendra Sah came back to his post, if he was allowed to do so. The respondents have not said anything about the aforesaid two circulars or whether they have acted in the case of the applicant in accordance with circulars at Annexure-A/4 and A/5.

8. Para 4.7 of the O.A. has been replied to in para 12 in which it has been stated that his representation for alternative appointment was referred to the higher authority [Postmaster General, Northern Region, Muzafferpur] for required informations in the matter. However, the written statement is silent as to what happened thereafter.

9. From the reply it appears that the provisions under the circular letters at Annexure-A/4 and A/5, have not been taken recourse to in the case of the applicant. There is nothing on the record to show that any effort was made to adjust the applicant by way of his appointment to another vacant post, either nearby to his home or away from home.

10. Since it does not appear that the applicant was kept in waiting list or any attempt was so made to consider his reappointment by the respondents on their own, obviously the time limit as given in Annexure-A/5 would hardly apply in the case of the applicant.

11. In view of the matter we feel that the respondents should give effect



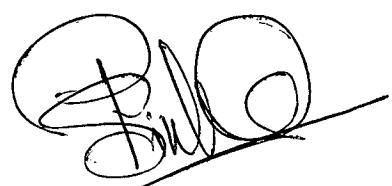
to the circular orders at Annexure-A/4 and A/5 and make attempt to rehabilitate the applicant by offering him alternative appointment if his name so comes up in the waiting list in order of seniority, keeping in view the vacancies within the sub division.

12. In that view of the matter, this application is disposed of with directions to the Respondent No.2, the Chief Postmaster General, Bihar Circle, Patna to comply with the circulars as at Annexure-A/4 and A/5 to the O.A. in relation to the applicant and to make effort to give alternative employment as ED Agent, if he is otherwise eligible for that as per the waiting list. This should be done within a period of one year of his being placed under waiting list as per Annexure – A/5.

13. With the aforesaid directions and observations, this application is disposed of. No costs.



[S.N.P.N.Sinha]M[A]



[P.K.Sinha]VC

mps.