

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 960 OF 1998.

DATE OF DECISION : 11.01.1999.

Suresh Anant Dhembare, \_\_\_\_\_ Petitioner.

Shri S. P. Kulkarni, \_\_\_\_\_ Advocate for the Petitioner.

VERSUS

Union Of India & 3 Others, \_\_\_\_\_ Respondents.

Shri V. S. Masurkar, \_\_\_\_\_ Advocate for the Respondents.

CORAM :

HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,  
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other *WV*  
Benches of the Tribunal ?

*R. Vaidyanatha*  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 960 OF 1998.

Dated this Monday, the 11th day of January, 1999.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,  
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Suresh Anant Dhembare,  
Extra Departmental/Branch  
Post Master,  
Ravdi Budruk.

Residing at -

Ravdi Budruk,  
(Via- Taradgaon S.O.),  
Tal - Phaltan, At P.O. Jinti  
Ravdi Budruk, Satara,  
Dist. Satara - 415 528.

... Applicant

(By Advocate Shri S.P. Kulkarni)

VERSUS

1. Union Of India through  
The Senior Superintendent Of  
Post Offices,  
Satara Postal Division,  
Dist. Satara - 415 001.
2. The Asstt. Superintendent of  
Post Offices,  
Phaltan Sub-Division,  
At P.O. Phaltan,  
District Satara - 415 523.
3. The Director of Postal Services  
Pune Region,  
At P.O. through  
Postmaster General,  
Pune Region, P.O. Pune-411 001.
4. Shri Appa Namdeo Kachare,  
'Up Sirpanch (and E.D.B.P.M.  
Selectee), At P.O. Ravdi Budruk  
Via. Taradgaon, Tal. Phaltan,  
District Satara - 415 528.

... Respondents.

(By Advocate Shri V.S. Masurkar)

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: OPEN COURT ORDER :

¶ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN ¶

This is an application filed by the applicant challenging the appointment of Respondent No. 4 and other consequential reliefs. The respondents have filed reply opposing the application. We have heard both Counsels. Since the point involved is a short point, we are disposing of this application at the admission stage.

2. The applicant is now working as an Extra Departmental Branch Post Master at Ravdi, Budruk in Satara District, since 15.03.1994. It appears, during the regular selection, Respondent No. 4 has been selected. The applicant is aggrieved by the selection of Respondent No. 4 and he also wants that he should be regularised and continued in the said post.

The respondents have filed reply opposing the application.

3. At the time of argument, the Learned Counsel for the respondents placed before us a letter dated 24.12.1998 which shows that the appointment of Respondent No. 4 has been cancelled. Therefore, the main relief which the applicant wanted in this O.A., namely - setting aside the appointment of Respondent No. 4 has now been ~~conceded~~ considered by the department by cancelling the appointment of Respondent No. 4. It is also stated in that letter that regular selection will be made to fill up the post in question. In such a case, the applicant could also offer himself as a candidate and the department will consider his case alongwith other candidates and decide the case on merits.

4. The Learned Counsel for the applicant contended that since he has been working for the last five years, he is entitled to be wait-listed in case he is discharged as per Swamy's - Service Rules for E.D. Staff Para 13(ii) as per D.G., P & T Letter dated 18.05.1979 (Vide page 30 of the paper book). We do not want to express any view on this point at this stage. Liberty to the applicant to agitate this point before the competent authority and it is for the authority to decide whether the applicant is entitled to any such relief. Needless to say that if any adverse order is passed, it is always open to the applicant to challenge the same according to law.

5. In the facts and circumstances of the case, the O.A. is partly allowed. Since the appointment of Respondent No. 4 has since been cancelled by the department, the department may proceed to fill up the post in question according to rules and consider all the candidates, including the case of the applicant, on merits and according to law. All other contentions raised in the O.A. are left open. Till a regular candidate is appointed in the place of the applicant, the applicant shall be continued in the present post on the same terms and conditions on which he is holding the post as on today. In the circumstances of the case, there will be no order as to costs.

  
(D. S. BAWEJA)  
MEMBER (A)

  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.