
Date of Decision: 6.4.94.

CA 727/89

MADAN SINGH

... APPLICANT.

Vs.

UNION OF INDIA & OPS.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

HON'BLE MR. O.P. SHARMA, MEMBER (A).

For the Applicant

... SHRI H.P. JANGID.

For the Respondents

... SHRI U.D. SHARMA.

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

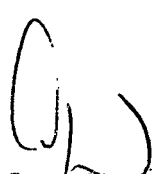
This application u/s 19 of the Administrative Tribunals Act, 1985 by the applicant Madan Singh is directed against the impugned order dated 26.7.89 (Annexure A-3), by which Shri Satya Narain was appointed in place of the applicant vide order dated 3.7.89.

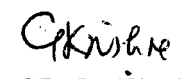
2. We have heard the learned counsel for the parties and have gone through the records.

2. The contentions of the applicant are that he was appointed as Extra Departmental Branch Post Master (EDBFM in short) at Dinwadi, Jagan by order dated 17.10.88 at Annexure A-1 and he had been working on the post till 3.7.89, on which date he was sought to be removed/retrrenched by the impugned order. The applicant contends that he is a workman and after having completed 240 days of service in the aforesaid post his services could not be retrrenched without complying with the provisions contained u/s 25F of the Industrial Disputes Act, 1947 (for short the Act). The impugned order is therefore assailed on the ground that the same is illegal, unjust and violative of the provisions of the Constitution. The respondents resisted this application contending that the applicant was engaged as EDBFM as a measure of ^a stop-gap arrangement on the retirement of the earlier incumbent Shri Garpat Singh pending the

regular appointment of an EDEPM by the appointing authority. The applicant was engaged w.e.f. 27.10.88 and it is contended that he was never appointed on a regular basis. However, the applicant was also considered for regular appointment alongwith Shri Satya Narain after his name was also sponsored by the Employment Exchange but Shri Satya Narain being a retrenched employee was given preference and the appointing authority had selected him for regular appointment. In the letter Annexure A-1, which records engagement of the applicant, it is stipulated that the applicant was engaged as EDEPM, Dinwa Jatan, against a vacant post till regular appointment against the same was made by the Supdt. of Post Offices, Sikar. We are of the opinion that the applicant's case is not one of retrenchment as defined in Section 2 (oo) of the Act but it is covered by the provisions contained in Section 2 (oo)(bb) of the Act since his disengagement from service was occasioned by a regular appointment in the post by the appointing authority under a stipulation in that behalf contained in the letter recording his engagement at Annexure A-1.

4. We, therefore, find no merit in this application and the same is hereby dismissed with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(GOPAL PRISHNA)
MEMBER (J)