

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.1173/92

Date of order: 19.12.1997

Hukum Singh

: Applicant

Vs.

1. Union of India through Secretary, Department of Post & Telegraphs, Sanchar Bhawan, New Delhi.
2. The Superintendent of Post Office, Jaipur.
3. Sub Record Officer, Railway Mail Service Post & Telegraph Department, Bharatpur.

...Respondents.

Mr.Sanjay Sharma - Advocate, Briefholder of Mr.M.K.Shah - Counsel for applicant.

Mr.V.S.Gurjar - Counsel for respondents.

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

Hon'ble Mr.O.P.Sharma, Administrative Member.

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN.

Applicant Hukum Singh has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, impugning the order dated 6.11.1991, Annx.A1, by which he was discharged from duty as an Unapproved Candidate (for short UAC) on the post of Extra Departmental Mail Man (EDMM).

2. The applicant's case is that he was engaged in May 1989 against the work of EDMM as well as against the work of UAC. He had moved an application on 6.11.1990 for appointment against the post of EDMM on substantive basis. However, by order dated 6.11.1991 he was discontinued from service. The contention of the applicant is that since the Department of Posts & Telegraphs is an industry and the applicant being a workman the respondents were bound to comply with the mandatory provisions of the Industrial Disputes Act, 1947 before retrenching him from service. The impugned order has therefore been assailed as being violative of the principles of natural justice and the

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provisions of the Industrial Disputes Act, 1947.

3. On the contrary, the respondents have stated that the applicant was engaged as a substitute on the post of EDMM till the completion of the process of appointment of a regular incumbent on the said post. The applicant was disengaged w.e.f. 6.11.1991 pursuant to a letter from the Director General Post, dated 28.8.1990 at Annx.E1. The respondents have stated in their additional reply that the present application is not maintainable for the reason that an Original Application No.7/91, All India FMS Employees Union & Anr. Vs. Union of India & Ors, was preferred by the applicant also alongwith others agitating the same issue. The aforesaid O.A No.7/91 was later on registered as O.A No.493/92 and it was disposed of by an order dated 21.9.1994, Annx.R3. It is also stated by the respondents that the applicant's plea that his retrenchment was in violation of the provisions of the Industrial Disputes Act, 1947 is not tenable because the Department of Posts is not an industry.

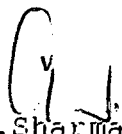
4. We have heard the learned counsel for the parties and have gone through the records of the case carefully.

5. It is borne out from Annx.E2 that the applicant alongwith certain others had filed an O.A No.7/91 later registered as O.A No.493/92, agitating substantially the same grievance and it was decided by an order dated 21.9.1994 at Annx.E3. In terms of the decision of a Division Bench of the Tribunal in the earlier O.A referred to above, the case of the applicant was reconsidered vide an order passed in May 1995 and he was not found fit for retention in service. The order of May 1995 has not been challenged by the applicant. Moreover, the applicant has concealed the fact of filing an earlier O.A alongwith others in regard to substantially the same matter and therefore, we are of the view that the present O.A is not

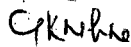
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maintainable. However, the applicant is free to challenge the order of May 1995, subject to limitation, if he is so advised.

6. The O.A is, therefore, dismissed as being not maintainable. No order as to costs.

  
(O.P. Sharma)

Administrative Member.

  
(Gopal Krishna)

Vice Chairman.