

(20)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A. No. 1095/91.

Dt. of Decision : 2-8-94.

Mr. V. Ramanarayana

.. Applicant.

Vs

1. Union of India, rep. by
the Secretary to Government,
Department of Posts,
New Delhi.

2. The Superintendent of Post Offices,
Peddapalli Division,
Peddapalli-5050172.

3. The Post Master,
Head Post Office,
Huzurabad-505 468.

.. Respondents.

Counsel for the Applicant : Mr. KSR. Anjaneyulu

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

(21)
Dt. of Decision : 2-8-94.

O.A. No. 1095/91.

ORDER

¶ AS PER HON'BLE SHRI A.V. HARIDASAN, MEMBER (JUDL.) ¶

The applicant who was absorbed as E.D.Packer, Huzurabad post offices w.e.f. 21-2-1990 and was while working w.e.f. 21-2-1990 discharged from service on 21-8-1990, is aggrieved by his dis-engagement without any notice and without service of termination order on him. The applicant made representations to Superintendent of Post Offices on 25-8-1990 and 10-6-1991. Finding no response he has filed this application praying that the respondents may be directed to allow him to continue to function as E.D. Packer at Huzurabad Head Post Office.

2. The respondents resist the application. Their contentions are as follows:-

3. The applicant who was working as E.D.M.C., Kanukulagida Branch P.O. on a provisional basis w.e.f. 27-9-1988 was relieved from that post, on 16-2-1990 on the reinstatement of the regular hand who was facing a disciplinary proceedings. Treating him as a thrown off E.D.Agent, he was wrongly absorbed in the existing vacancy of E.D.Packer, Huzurabad P.O. When it was found out that the absorption of the applicant as E.D. Packer taking that he was a thrown off E.D.Agent erroneous, the Post Master General directed that the vacancy should be notified. The vacancy being not a regular selection was held from among the candidates who responded thereto and on the appointment of the selected, uncumbant the applicant was relieved from

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2nd D/P

The applicant refused to accept the order of termination which was tendered and refused to accept the same when it was sent by Registered Post. According to the respondents, as the absorption of the applicant w.e.f. 21-2-1991 as E.D. Packer was found on the basis of a mistake, the action taken by the respondents in rectifying the mistake and filling up the post on regular basis is absolutely in accordance with the rules and cannot be faulted.

3. We have heard Sri K.S.R. Anjaneyulu, learned counsel for the applicant and Sri N.R. Devaraj, learned senior Central Government standing counsel for the respondents. It is evident from the pleadings that the applicant was absorbed in the post of E.D. Packer w.e.f. 21-2-90 on the basis of Annexure-A1, taking him to be a thrown out E.D. Agent. Since the applicant had hardly two years of provisional service on the date on which his services was terminated in the post of E.D.M.C. in accordance with the rules and instructions, in regard to the appointment, retrenchment and reemployment as E.D. Agents the applicant had no right to be treated as a thrown out E.D. Agent. Therefore, we find that the absorption of the applicant in the post of E.D. Packer was vitiated by a mistake in the mind of the competent authority, for he erroneously took the applicant as thrown out E.D. Agent. It was this mistake that was rectified by resorting to regular process of selection and the applicant had been relieved from his office on a regular selection and appointment having been made. Sri Anjaneyulu argued that as applicant had been appointed to a civil post, rightly or wrongly,

he has a right to hold the post until he has been removed from service under due process of law. The arguments at the first plash appeared to be very pursuasive. But a close scrutiny of the background in which the applicant came to be ~~absorbed~~ in the post of E.D.Packer would reveal that the very ~~absorption~~ was vitiated by a mistake in the mind of the competent authority. Nobody requires a legal right on the basis of any order which is vitiated by a mistake. Therefore, the very appointment of the applicant being vitiated by a mistake, he did not get a vested right to hold the post. Therefore, there is no merit in the argument on behalf of the applicant that the termination of the service of the applicant without giving him an opportunity to be heard is violative of principles of natural justice.

4. In the light of what is stated above, we are not in a position to hold that the termination of services of the applicant was unsustainable as it did not suffer from any confirmity. The applicant, therefore is not entitled to the relief which he has prayed for. However, taking into consideration the facts that the applicant has served as an E.D.M.C. and E.D. Packer for a fairly long time, it would be desirable if his case for engagement on a provisional basis in any vacancy of E.D. Packer arises anywhere in Sub-Division. When this was suggested to the learned counsel for the respondents, the learned counsel fairly agreed that the respondents would consider the case of the applicant sympathetically, if he is otherwise eligible for such engagements.

5. In the result, while declining the grant of relief as prayed for in this application, we dispose of this application directing the respondents to consider the case of the applicant for provisional appointment as E.D.M.C. or E.D. Packer in any vacancy that may arise in future, anywhere in Sub-Division, and give him such appointment if he is otherwise not ineligible for such provisional arrangement. There is no order as to costs.

Abayag

(A.B. Gorathi)
Member (Admn.)

M. Haridasan

(A.V. Haridasan)
Member (Judl.)

At. 2nd August, 1994.
Open Court Dictation.

Amber 1689u.
DEPUTY REGISTRAR(J)

kmv/spr.

Copy to:

1. The Secretary to Government, Union of India, Department of Posts, New Delhi.
2. The Superintendent of Post Offices, Peddapalli Division, Peddapalli - 505 172
3. The Post Master, Head Post Office, Huzurabad - 505 468.
4. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT, Hyderabad.
5. One copy to Mr.N.R.Devraj, Sr.CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

YLKR

*5th page
Re 16/8/94*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN: MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

Dated: 2.8.94

ORDER/JUDGMENT.

~~M.L./R.P./C.P.NO.~~

C.A.NO. 1025/91 ⁱⁿ

T.A.NO.

~~(W.P.NO.)~~

~~Admitted and Interim Directions
Issued.~~

~~Allowed.~~

~~Disposed of with directions.~~

~~Dismissed.~~

~~Dismissed as Withdrawn.~~

~~Dismissed for Default.~~

~~Rejected/Ordered.~~

~~No order as to costs.~~

(3)

