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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A.No. 505 of 1996.

Date of Order: 29-6-1998.

Between:

Arji Suribabu. .. Applicant

and

Union of India, represented by:

1. Chief Post MasterGeneral, Andhra Pradesh Circle, Hyderabad.
2. Senior Superintendent of Post Offices, Srikakulam Division, Srikakulam.
3. The Assistant Superintendent of Post Offices, Srikakulam, West Sub Division, Srikakulam.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr. K.S.R. Anjaneyulu

COUNSEL FOR THE RESPONDENTS :: Mr.N.R. Devaraj

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

AND

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

(AS PER THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (A))

Heard Mr.D.Subrahmanyam for Mr.K.S.R. Anjaneyulu
for the Applicant and Mr.N.R. Devaraj for the Respondents.

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2. The applicant who was working as ED Packer of Murapaka Sub Office, Srikakulam has filed this O.A. challenging the Order of termination dated: 20-3-1996 (Annexure-1, Page.6 to the O.A.) issued under Rule (6) (a)&(b) of the P&T ED (C&S) Rules, 1964. His contention, that he has been posted as EDDA for One year and that order was issued without indicating whether he was appointed on provisional or regular basis. As there was no mention regarding provisional/regular, it has to be treated as a regular appointment.

3. The applicant has prayed that he should be continued as EDDA without terminating his services on the basis of the termination notice issued to him bearing No. PF/ED Packer-MC/Murapaka, dated: 20-3-1996 (Annexure-1).

4. A reply has been filed in this O.A. In the reply, it is stated that the applicant was appointed on a provisional basis and a Show Cause Notice was issued under Rule (6) (a)&(b) of the P&T ED (C&S) Rules, 1964. One Sri K.Suribabu was appointed. The applicant cannot question the termination of his services as he was only a provisional appointee.

5. The main contention of the applicant is that, he was appointed as EDDA after he applied in response to notification dated: 15-4-1995 and in the Order at page.9 he has not been shown as a provisional EDDA. Hence he was under the impression that he was regularly appointed on the basis of the notification referred to above. He

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also submits that he has been terminated under Rule (6) of the ED (C&S) Rules and that rule can be resorted to only if he is a regular ED staff.

6. We questioned the learned Counsel for the Applicant the relief that has to be given in this O.A. if he succeeds in this O.A. He submits that the relief be given to him appointing him as EDDA against Sri K.Suri Babu. When we questioned whether a direction can be given discharging Sri K.Suri Babu without hearing him, the learned Counsel for the Applicant fairly submitted that Sri K.Suri Babu is a necessary party to the OA and he has to be impleaded. However, he was not impleaded as at the time of filing of the OA Sri K.Suri Babu was not in service. When we further probed into this as to whether he had filed any miscellaneous petition impleading Sri K.Suri Babu when he was appointed and the applicant was discharged from service, the learned Counsel for the Applicant was not very forth-right in his submission.

7. If any relief has to be given to the Applicant in this OA for posting as EDDA, then the necessary party is the EDDA who is presently working now in that post ie., Sri K.Suri-Babu. It is stated that he has been regularly posted as EDDA based on the notification referred to above. That Sri K.Suribabu has not been impleaded in this OA. It has to be held that proper party has not been impleaded to give relief in this OA. Hence the OA is liable to be dismissed for non-joinder of proper party.

8. Though the applicant requested for amending the OA for impleading the proper party, we felt that at this late

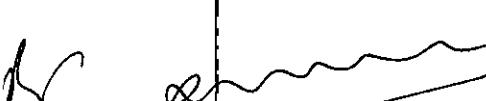
stage after lapse of 2 $\frac{1}{2}$ years of filing the OA keeping the OA open, giving permission to the applicant to file implead petition will only lead to inordinate delay and with not much of advantage ~~persuasion~~. Hence we suggested to him that the applicant may file a fresh OA challenging the appointment of Sri K.Suri Babu as the EDDA and also raising other contentions raised in this OA.

9. The learned Counsel for the applicant fairly accepted the above suggestion. He also submitted that the question of limitation should not be counted if he files a fresh OA. This submission is taken note of. Hence the period from 18-4-1996 ie., the submission of this OA till today will not be counted for the purpose of limitation, if any.

10. In the result, the OA is dismissed for non-rejoinder of the proper party. However, the applicant is at liberty to file, if so advised, a fresh OA for the same relief impleading the proper party taking all the contentions including the contentions raised in this OA.

11. The period from 18-4-1996 till today will not be counted for purpose of limitation, if any, in filing the fresh OA in case the fresh OA is filed within 30 days from the date of receipt of this Order.

12. In view of the above, the OA is dismissed. No costs.


(B.S.JAI PARAMESHWAR)

MEMBER (J)

29.6.98


(R.RANGARAJAN)

MEMBER (A)

Dated this the 29th day of June, 1998

Dictated to steno in the Open Court

DA/505/96

Copy to:-

1. The Chief Post Master General, Andhra Pradesh Circle, Hyderabad.
2. The Sr. Superintendent of Post Offices, Srikakulam Division, Srikakulam.
3. The Assistant Superintendent of Post Offices, Srikakulam, West Sub Division, Srikakulam.
4. One copy to Mr. K.S.R.Anjaneyulu, Advocate, CAT., Hyd.
5. One copy to Mr. N.R.Devaraj, Sr.CGSC., CAT., Hyd.
6. One copy to BSJP M(J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

SRR

16/7/98
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TYED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B. S. JAI PARAMESHWAR :
M(J)

DATED: 29/6/98

ORDER/JUDGMENT

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

in
C.A.NO. 505/98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

