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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
JAIPUR.

OA 293/93

Date of order: 14.11.1995

Chiranji Lal : Applicant

Versus

Union of India & Others : Respondents.

Mr. K.L.Thawani, counsel for the applicant
Mr. U.D.Sharma, counsel for the respondents

CORAM:

HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN
HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

O R D E R

(PER HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN)

Applicant Chiranji Lal has filed this application under Section 19 of the Administrative Tribunal's Act, 1985, assailing the termination of his services as an Extra Departmental Branch Post Master, Kaliahat (Chhabra) District Baran on 3.4.93 as being arbitrary and illegal. He has sought a direction to the respondents to reinstate him in service and treat him on duty from 3.4.1993.

2. The case of the applicant is that he was appointed as an Extra Departmental Mail Carrier (for short, EDMC) Kalia w.e.f. 28.1.1978 and he continued in that post till it was abolished on 25.4.1991 on which date the applicant took charge as Extra Departmental Branch Post Master (for short, EDBPM) Kaliahat (Chhabra) vide Annexure A-3. The applicant is a member of schedule caste. However, the Senior Superintendent of Post Offices, Kota Division (respondent No.4) terminated the services

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of the applicant w.e.f. 3.4.1993. The order of termination after the applicant has put in service as an Extra Departmental Agent for more than 15 years is challenged as being arbitrary and illegal.

3. On the contrary, the respondents have stated that the post of E.D.M.C. at Phalia was abolished on 25.4.1991 and since a new Post Office at Kadihat was opened near Phalia on 25.4.1991 and the post of EDBPM in the said Post Office could not be filled up on a regular basis, the applicant was engaged as EDBPM provisionally with a view to running the Post Office there. It is also stated that the applicant accepted the offer of engagement as EDBPM and he joined his duties on 25.4.1991. However the applicant's name was included in the waiting list of surplus Extra Departmental Agents. It is also pleaded by the respondents that the applicant did not fulfil the requisite qualification for the post of EDBPM and his appointment to the post being provisional, his engagement had to be terminated on 3.4.1993 on appointment of respondent No.5 on regular basis to the said post.

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

5. It should be noted at the very out-set that the minimum educational qualification prescribed for the post of EDBPM prior to 1.4.1993 was VIIIth standard pass. It is obvious from Annexure A-7 which

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is a representation dated 15.3.1993 made by the applicant himself to the concerned authority in regard to his grievance that the applicant possesses the qualification of VIth standard pass. As the applicant did not possess the minimum educational qualification prescribed for the post of EDEPM on the date of his appointment i.e. 25.4.1991 he was not eligible for appointment to the post on a regular basis and the termination of his services from the said post cannot therefore be said to be either illegal or arbitrary.

6. The applicant has already served as an EDMC w.e.f. 28.1.1978 till 25.4.1991 and thereafter as EDEPM from 25.4.1991 till 3.4.1993 for a period of about 15 years and his name was included in the waiting list of surplus Extra Departmental Agents, he should have been offered an alternative appointment within a year on the occurrence of vacancy. It will meet the ends of justice in the circumstances of the case if the respondents consider his case for re-engagement for the post of EDMC sympathetically in view of the length of service already rendered by him as soon as a vacancy arises in the post.

7. We, therefore, direct the respondents to consider the applicant's case for re-engagement as an EDMC as and when a vacancy in the post occurs in the Division.

8. This OA is disposed of accordingly with no order as to the costs.

(O.P. SHARMA)
MEMBER (A)

C. Krishna
(GOPAL KRISHNA)
VICE CHAIRMAN