

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 29.3.96.

OA 499/94.

Jagdish Prasad Jangid

... Applicant

Versus

Union of India and others

... Respondents

CORAM:

HON'BLE MR. GOPAL TIFISHMA, VICE CHAIRMAN

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

For the Applicant

... Mr. K.L. Thawani

For the Respondents

... Mr. M.Rafiq

O R D E RPER HON'BLE MR. O.P. SHAFMA, MEMBER (A)

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri Jagdish Prasad Jangid has prayed that order Ann.A-1 dated 2.9.94, by which his selection for appointment to the post of EDDA (Extra Departmental Delivery Agent) in Nasirda Sub Post Office was cancelled, may be quashed as being arbitrary etc. and violative of Articles 14 and 311(2) of the Constitution and the principles of natural justice. He has further prayed that the respondents may be directed to appoint the applicant with retrospective effect and treat him to be in continuous service since 26.8.94 with all consequential benefits. His yet another prayer is that the respondents may be directed not to appoint any other candidate to the post to which the applicant was appointed.

2. The case of the applicant is that on being sponsored by the Employment Exchange he was selected for appointment to the post of EDMC cum EDDA (Extra Departmental Male Carrier cum Extra Departmental Delivery Agent) Nasirda by the Sub Divisional Inspector (Postal), Deoli, vide Ann.A-3 dated 22.8.94. The applicant joined duty accordingly on 26.8.94 vide charge report Ann.A-4. However, the Sub Divisional Inspector, who is respondent No.4 in this application, subsequently cancelled the selection of the applicant and removed him from service vide order Ann.A-1 dated 2.9.94. The applicant submitted a representation on 14.1.94 and also sent a reminder dated 27.9.94 but no reply has been received. He also made a representation dated 28.9.94 to the Superintendent of Post Offices, Tonk, who is respondent No.3, but that also has not evoked any response. The applicant's case is that he possesses all the prescribed qualifications for the post. He has been sponsored by the Employment Exchange and has been duly selected and appointed to the post by the competent authority and,

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therefore, his removal from service now is in violation of principles of natural justice and Articles 14 and 311(2) of the Constitution.

3. The respondents in their reply have stated that the post of EDMC fell vacant at Nasirda on account of retirement of one Shri Sakram Meena on 10.4.94 and in order to fill up this post the Inspector Post Office Deoli, who is the competent authority to make appointment on this post, asked the District Employment Officer, Tonk, on 7.3.94, to sponsor candidates for filling up the post. Against this post an application from one Shri Durga Lal Prajapati, EDMC of Sandla, in Tonk District, was received on 19.4.94. The Inspector proposed that since Sandla has been sub-merged into an Irrigation Project in the area, he should be appointed against the post which fell vacant at Nasirda. The Inspector Post Office Deoli was asked by the Superintendent Post Offices, Tonk, on 2.5.94 to verify the position. The Inspector sent a report dated 6.8.94 confirming that Village Sandla would be eventually sub-merged in the Irrigation Project in that area. The Inspector also proposed in this report that one post, out of the two in the Sandla Post Office, may be abolished and Shri Durga Lal Prajapati on being rendered surplus at Sandla may be adjusted against the vacant post at Nasirda. Around the same time the Inspector Post Office had also requisitioned names from the Employment Exchange for filling up the post of EDMC at Nasirda. On the names being sponsored, he selected the applicant for appointment on 22.8.94 and made him to take over the charge of the said post on 26.8.94. When the Superintendent Post Offices, Tonk, was informed about this position by the Inspector on 24.8.94, he called for the Inspector's explanation as to why he had appointed a new person when there were proposals to accommodate an official rendered surplus, against this post. In his reply, the Inspector again proposed abolition of the post at Sandla and adjustment of the official rendered surplus there against the post at Nasirda. Accordingly, the Superintendent Post Offices, Tonk, vide letter dated 1.9.94, directed the Inspector to cancel the selection of the applicant for the post at Nasirda and appoint Shri Durga Lal Prajapati against that post. It was on account of the aforesaid irregularity in the selection of the applicant that he was relieved of the post of EDMC cum EDDA. Copies of the correspondence exchanged with the Inspector have been presented as Ann.F-1 to F-5. The respondents have added in their reply that the representation of SC and ST communities was inadequate and, therefore, even otherwise the post at Nasirda should have gone to an SC or ST candidate.

4. The learned counsel for the applicant stated that since the applicant had been selected and appointed after a regular process of selection by the

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competent authority, his removal from service was wholly uncalled for. The learned counsel for the respondents stated that while the Inspector Post Office, Deoli, had earlier sent a report on 8.8.94 to the Superintendent of Post Offices, Tonk, proposing appointment of the official rendered surplus against the post at Nasirda, on 22.8.94 he had issued a letter selecting the applicant for appointment to the said post. Thus, there was an irregularity on the part of the Inspector in selecting and appointing the applicant to the post at Nasirda. It was in order to correct this irregularity that the selection and appointment of the applicant to the post at Nasirda was cancelled. Even otherwise, according to him, the post should have gone to an SC or ST candidate and; therefore, the appointment of the applicant to the said post was irregular.

5. We have heard the learned counsel for the parties and have gone through the material on record.

6. There is no dispute that the applicant was selected by the prescribed process of selection and he fulfills qualifications for appointment to the post to which he was appointed. It is also not disputed that the Inspector was the competent authority to appoint the applicant. Once the appointment of the applicant was on the basis of a regular selection, he fulfills all the qualifications for the post, he was appointed to the said post by the competent authority and the post was also in existence, we see no reason why the applicant should have been disturbed from the post to which he was appointed on the ground that an official rendered surplus elsewhere should have been accommodated against the said post. If there was any irregularity on the part of the Inspector in not first adjusting the surplus official against the said post before going in for fresh selection from the open market, the respondents should have taken the Inspector to task rather punishing the applicant for no fault of his. The averment that the post should have gone to an SC or ST candidate is vague and also not proper in the context in which it has been made because it is not the case of the respondents that Shri Durga Lal Prajapati was proposed to be appointed to the said post on the ground that he belongs to an SC or ST community.

7. In these circumstances, we hold that the cancellation of the appointment of the applicant was wholly irregular and improper. Accordingly, Ann.A-1 dated 2.9.94 is quashed. The applicant shall be entitled to seniority on the post of EDMC cum EDDA from the date of his initial appointment. However, he shall not be entitled to any back wages on joining the post. The respondents are further directed to take the

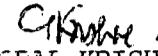
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applicant back on duty within 15 days of his reporting for duty alongwith a copy of the order of the Tribunal. The OA is allowed accordingly, with no order as to costs.

  
(O.P. SHAFRAZ)

MEMBER (A)

  
(GOPAL KRISHNA)

VICE CHAIRMAN

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