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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 25.5.2000

OA 389/97

Bhimraj Sharma, last posted as EDBPM Raisar, Tehsil Jamwa Ramgarh, District Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Communication & Postal Department, Central Secretariat, New Delhi.
2. Chief Post Master General, Postal Department, Rajasthan, Jaipur.
3. General Manager/Controller, Post & Telegraph Department, Rajasthan, Jaipur.
4. Superintendent Post Master, Jaipur Rural Division, Jaipur.
5. Sub Divisional Inspector (Post), Sub Division Jaipur (South), Mansarovar, Jaipur.

... Respondents

CORM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.V.SRIKANTAN, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.Vishwajeet Mantri

For the Respondents ...

O R D E R

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

Heard. The prayer of the applicant in this OA is to quash and set aside the order dated 31.1.97 and to direct the respondents to give regular appointment to the applicant on the post of Branch Post Master, Raisar, Tehsil Jamwa Ramgarh, District Jaipur.

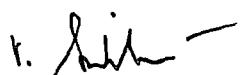
2. The case of the applicant is that he was appointed as EDBPM, Raisar, in place of Shri Surajmal Tailor and he joined the post on 8.2.94. He has also stated that the appointment of the applicant as Branch Post Master, Raisar, was extended from time to time by the respondents and suddenly by an order dated 31.1.97 the charge of the post of EDBPM, Raisar, was ordered to be given to Shri Surajmal Tailor. It is argued by the learned counsel for the applicant that applicant was appointed on provisional basis and he has almost completed the period of three years as provisional appointee. Therefore, the order dated 31.1.97 be quashed and necessary directions be given to appoint the applicant on the post of EDBPM, Raisar, or any other vacant post.

3. Admittedly, the applicant was appointed on provisional basis as a

stop-gap arrangement because disciplinary proceedings were initiated against Shri Surajmal Tailor and till the disciplinary proceedings against Shri Surajmal Tailor are decided, the applicant's appointment was made on provisional basis. In the order of appointment it is also made clear that services of the applicant will be terminated without any notice and the services of the applicant shall be governed by EDA (Conduct & Service) Rules, 1964 and by other rules and orders applicable to Extra Departmental Agents. In Superintendent of Post Offices v. E.Kunhiraman Nair Muliyan, 1998 (9) SCC 255, it was held by Hon'ble the Supreme Court that temporary and provisional appointment of EDBPM with stipulation that the same could be terminable at any time without assigning any reason and that his services could be governed by P&T EDA (Conduct & Service) Rules, 1964, termination of such appointment on administrative ground within the time limit, as contained in Rule-6 of the said rules, held termination simpliciter and not stigmatic and hence does not attract the provisions of Article-311 of the Constitution.

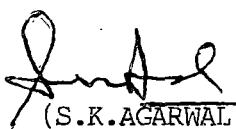
4. In the instant case, the applicant was appointed on provisional basis as a stop-gap arrangement till the disciplinary proceedings against Shri Surajmal Tailor are pending. Since the disciplinary proceedings against Shri Surajmal Tailor were completed and he was acquitted from all the charges, he has to join on his original post. In view of this, the order passed by the respondents dated 31.1.97 is not in any way illegal, arbitrary and against the settled principles of law.

5. We, therefore, dismiss this OA in limine at the stage of admission.



(V.SRIKANTAN)

MEMBER (A)



(S.K.AGARWAL)

MEMBER (J)