

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 11.05.2000

OA No.133/98

Purshottam Sharma s/o Banshidhar, aged about 29 years, r/o village and Post Office Makri via Maonda R.S., District Sikar.

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communications, New Delhi.
2. Director Postal Services, Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Offices, Sikar Division, Sikar.
4. A.L.Balani, Superintendent of Post Offices, Sikar Division, Sikar.

.. Respondents

Mr. K.L.Thawani, counsel for the applicant

Mr. Hemant Gupta, Proxy counsel to Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

O R D E R

Per Hon'ble Mr. S.K.Agarwal, Judicial Member

In this Original Application filed under Section 19 of the Administrative Tribunals Act, applicant makes a prayer to direct the respondents to consider the appointment of the applicant according to rules giving weightage of provisional appointment.

2. Facts of the case, as stated by the applicant, are that the applicant was appointed on provisional basis as EDBPM, Makri on 11.2.1997. The applicant was working satisfactorily but Superintendent of Post Offices, Sikar issued a notice dated 10.2.1998 calling applications for appointment of EDBPM, Makri. The applicant has also applied for the post. It is stated that applicant fulfils all the eligibility conditions/requisite qualifications and he has been honestly and sincerely working on the post of EDBPM, Makri since 11.2.1997 but the applicant is having an apprehension for termination of his services. It is stated that as provisional appointee the applicant is having weightage in selection for the post of EDBPM, Makri. Therefore, he filed this Original Application for the relief as above.

2. Reply was filed. In the reply it is admitted that the applicant was appointed as EDBPM, Makri w.e.f. 11.2.1997 till the finalisation of disciplinary proceedings against Shri Ramavtar Yadav, the working EDBPM, Makri who was put off duty. It is stated that the applications were invited for appointment of EDBPM, Makri and a notification dated 10.2.1998 was also issued. In pursuance of the said notification few persons have applied and Shri Rameshwar Lal S/o Madharam, resident of Heerwala village Post Chiplata was considered as fit candidate for the post and, thereafter, applicant was discontinued. It is stated that Employment Exchange has not sponsored the name of the applicant. It is also stated that the candidates having no independent means of livelihood and the income or no property in their own name will not make them applicable for consideration for appointment. The applicant did not produce his marksheet for passing the Secondary School Examination, 1990. It is also stated that applicant was only offered appointment as EDBPM, Makri on provisional basis with the clear-cut understanding that the provisional appointment will be terminated when regular appointment is made and he has thereafter no claim for the post. Therefore, the applicant cannot claim his appointment on the post of EDBPM, Makri on the basis of his earlier working on provisional basis. It is also stated that Shri Rameshwar Lal was selected following the recruitment rules/ instructions as he was found most suitable and there is no provision in the rules to give any weightage of the services which the applicant has rendered on provisional basis for selection on the post of EDBPM.


3. No rejoinder to the reply was filed. Heard the learned counsel for the parties and also perused the whole record.

4. It is not disputed that the applicant was appointed as EDBPM, Makri on provisional basis and it was only a stop-gap arrangement as disciplinary proceedings were going on against Shri Ramavtar Yadav and this stop-gap arrangement was made till any regular appointment is made on the post. It is also made clear in the reply that it was made very specific in the order of appointment that applicant's appointment on provisional basis is purely a stop-gap arrangement till any regular appointment is made and the services of the applicant can be terminated at any time after a regular appointee joins. The learned counsel for the applicant also did not dispute the fact that there is no provision in the recruitment rules to give weightage to the applicant of his services he

*File*

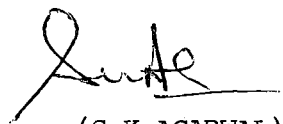
rendered on provisional basis as EDBPM. In the rules there is only a provision to put the name of those persons in the waiting list who at the time of discharge had put in not less than 3 years of service. In pursuance of notification dated 10.2.1998 regular selection has already been made and there is no provision in the rules to give weightage to the applicant of the services he rendered on provisional basis as EDBPM. In Superintendent Post Offices and Ors. v. Kunhiraman Nair Muliyar, (1989) 9 SCC 255 it was held by Hon'ble the Supreme Court of India that temporary/provisional appointment of EDBPM with the stipulation that the same would be terminable at any time without assigning any reason and his services should be governed by P&T ED Agents (C&S) Rules, termination of such appointment on administrative grounds would be termination simplicitor and not stigmatic, hence did not attract Article 311 of the Constitution of India. In the instant case while appointing the applicant on provisional basis, it was made clear that it is merely a stop-gap arrangement and services of the applicant could be terminated without notice and after a selection is made on regular basis. The applicant has already been relieved and in pursuance of notification dated 10.2.1998 a selection has already been done by following the recruitment rules. Therefore, we do not find any basis to say that applicant is entitled for any relief sought for.

5. We, therefore, dismiss this Original Application having no merits with no order as to costs.



(N.P. NAWANI)

Adm. Member



(S.K. AGARWAL)

Judl. Member