

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.409/99

Date of order: 1/8/2000

Om Prakash Sharma, S/c Kacimal, R/c Village Kishorepura, Sikar and
working as Extra Departmental Branch Postmaster, Kishorepura.

...Applicant.

Vs.

1. Union of India through Secretary, Min. of Communications Deptt.
of Posts, New Delhi.
2. Chief Post Master General, Rajasthan Western Region, Jaipur.
3. Superintendent of Post Office, Sikar Division, Sikar.
4. Inspector of Post Offices, Nim-ka-Thana, Distt. Sikar.

...Respondents.

Mr. K.L. Thawani - Counsel for applicant.

Mr. M. Rafic) - Counsel for respondents.

Mr. Hemant Gupta)

CORAM:

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

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

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

In this Original application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to issue appropriate order not to terminate the services of the applicant without lawful process as envisaged under Article 311(2) of the Constitution.

2. An interim direction has also sought restraining the respondents not to terminate the services of the applicant till the disposal of the O.A. Vide order dated 27.8.99, this Tribunal issued an order to maintain status quo regarding the post in question.

3. Facts of the case as stated by the applicant are that he was appointed on regular basis as EDBFM, Kishorepura on 26.5.87. Since then he continue to work as EDBFM Kishorepura and have thus completed the service of more than 12 years. It is stated that he has worked

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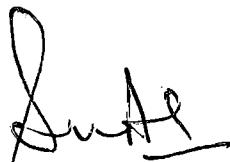
sincerely and honestly and there was no complaint against him. But on 17.8.99, the Inspector of Post Offices, Neem ka Thana visited Kishorepura and directed to handover the charge to the Mailoverseer. The Sarpanch Gram Panchayat and other residents of the village objected the action of the Inspector. Then the Inspector has written certain remarks in the order book of Kishorepura Post Office on page No.49 but later on he tore out the page and went away. It is stated that the applicant sent a representation to the Postmaster General, Jodhpur, on 19.8.99. It is stated that the action of the Inspector Post Office, Neem-ka-Thana was arbitrary and in violation of Articles 14, 16, 21 and 311(2) of the Constitution of India. Therefore, the applicant has filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply, it is stated that the applicant was appointed as EDBFM, Kishorepura purely on temporary basis w.e.f 26.5.87 against a regular incumbent who was facing disciplinary proceedings and the disciplinary proceedings against the regular incumbent came to an end on 30.6.92. Thereafter penalty of removal from service was imposed upon the delinquent but regular selection on the post of EDBFM, Kishorepura could not be made and the applicant worked on the post on a temporary basis. It is stated that the applicant does not possess the requisite educational qualification for the post of EDBFM which is matriculation after amendment in the eligibility condition w.e.f. 1.4.93 and the applicant possesses only IXth standard and denied that the applicant was appointed as EDBFM, Kishorepura on regular basis w.e.f. 26.5.87 therefore, it was necessary to cast him to make room for regular appointment. Therefore, the O.A is devoid of any merit and liable to be dismissed.

4. Rejoinder was also filed reiterating the facts as stated in the O.A which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.

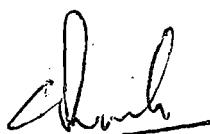
6. Undisputedly, the applicant was engaged on the post of EDBFM,



Kishorepura on 26.5.87 and since then he was continuing on the post. It is also undisputed fact that amendment in the eligibility conditions of EDBFM, EDSIM was effective w.e.f. 1.4.93. Therefore, the respondents has not right to dispense with the services of the applicant on the ground that he does not fulfills the eligibility criteria meant for EDBFM as amended vide order dated 1.4.93. Therefore, the contention of the respondents that they want to make room for regular selection as the applicant does not sustainable in law since the applicant is working w.e.f. 26.5.87, therefore, it is expected from the respondents department that the services of the applicant may be terminated only after following the due process of law and not arbitrarily.

7. We, therefore, allow the application and direct the respondents not to terminate the services of the applicant without following lawful process as envisaged under Article 311(2) of the Constitution of India.

8. No order as to costs.


(N.P. Newari)

Member (A).


(S.K. Agarwal)

Member (J).