

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 12.7.2000

OA 516/99

Narendra Kumar Sharma s/o Late Shri Kanhiya Lal Sharma r/o Gram Panchayat Bhamaloo via Arai, Teh.Kishangarh, Distt.Ajmer.

... Applicant

Versus

1. Union of India through Post Master General, New Delhi.
2. Sr.Suptd. of Post Offices, Ajmer Zone, Ajmer.
3. Banwari Lal s/o Shri Lalaram Daroga r/o Gram Panchayat at Bambolla, Teh.Kishangarh, Distt.Ajmer.

... Respondents

CORAM:

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

HON'BLE MR.S.BAPU, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.Manoj Kumar Chaudhary

For the Respondents

... Mr.K.N.Shrimal

O R D E R

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

In this OA filed u/s 19 of the Administrative Tribunals Act, the applicant makes a prayer to declare his termination as illegal and mala fide on the ground that he has worked on the post of Branch Post Master Bhamaloo for more than 360 days and no regular appointment has been made on the post by the respondents. Therefore, just to give benefit to respondent No.3 the regular post was created. It is further stated that the applicant fulfils the eligibility criteria for the post and his services cannot be dispensed with. Therefore, he has challenged the order of termination on the post and makes a request to appoint him as EDBPM Bhamaloo.

2. Reply was filed. In the reply it has been stated that the post of EDBPM Bhamaloo fell vacant due to the retirement of Shri Devilal Sharma on 6.10.98 and the applicant was given charge of the post on 5.10.98 A/N purely on temporary and provisional basis. It is also stated in the reply that the applicant worked till 30.9.99. It is further stated that on 1.10.99 due to the administrative reasons one Shri Ramgopal Sharma was engaged but since he failed to produce any certificate of educational qualification, another person Shri Ratanlal Daroga was engaged from 14.10.99. Meanwhile, process of regular selection was initiated on 23.7.98 and Shri Bhanwarlal Vaishnav was appointed after completing the due process of selection according to the recruitment rules meant for EDAs. It is also stated that services of the

[Handwritten signature]

applicant were terminated under terms of appointment and no show-cause notice is required to be given before termination of provisional/temporary appointment. Therefore, in view of the reply filed, the respondents have requested to dismiss this OA with costs.

3. Heard the learned counsel for the parties for final disposal of this case at the stage of admission.

4. It is an admitted fact that the applicant was engaged purely on temporary/provisional basis and it was made clear in the order of appointment that this provisional appointment does not create any right in favour of the applicant to remain on the post and the services of the applicant can be terminated at any time without giving any notice and without assigning any reason. It is also an undisputed fact that after following the recruitment rules Shri Bhanwarlal Vaishnav has already been appointed on the post and he has taken over the charge of the post of EDBPM Bhamaloo on 13.11.99.

5. It is also an undisputed fact that the applicant was appointed initially on provisional and temporary basis and no right could accrue in his favour to remain on the post. In the order of appointment it has been made clear that services of the applicant could be terminated at any time without any notice. It is also clear that Shri Bhanwarlal Vaishnav has already been selected on regular basis after following the regular recruitment process and he is working on the post. As per Full Court decision given by the CAT, Hyderabad Bench, no weightage can be given to the applicant for his past experience.

6. In Supdt. of Post Offices & Ors v. E.Kunhiraman Nair Muliya (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 would be terminable at any time without assigning any reason and that his services would be governed by P&T ED Agent (S&S) Rules, termination of such appointment on administrative grounds whether the time limit as contained in Rule-6 of the said rules held the termination simpliciter and not stigmatic, hence did not attract Article 311 of the Constitution of India.

7. In the instant case, appointment of the applicant was purely on provisional basis and it was only a stop-gap arrangement till a regularly selected candidate joins. The process of selection for regular appointment of EDBPM Bhamaloo was initiated and Shri Bhanwarlal Vaishnav was selected and he is working on the post. Therefore, in our considered view, the applicant


[Signature]

has no case for interference by this Tribunal and this OA is devoid of any merit and liable to be dismissed.

7. We, therefore, dismiss this OA at the stage of admission.

(S.BAPU)

MEMBER (A)


(S.K.AGARWAL)

MEMBER (J)