

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA NO. 76/99

DATE OF ORDER: 2-7-2002

Dharampal Son of Shri Sultan aged about 27 years resident of Village and post Office Rampura via Alsisar District Jhunjhunu and working as Extra Departmental Branch Postmaster (in short EDBPM) Rampura, District Jhunjhunu.

....Applicant.

VERSUS

1. Union of India through the secretary to the government of india, Department of Post, Ministry of communications, new Delhi.
2. Post Master General, Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Offices, Jhunjhunu Division, Jhunjhunu.

....Respondents.

Mr. K.L. Thawani & P.N. Jatti, Counsel for applicant.

Mr. Arun Chaturvedi, counsel for the respondents.

CORAM

Hon'ble Mr. A.P. Nagrath, Member (Administrative)

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

ORDER

PER HON'BLE MR. J.K. KAUSHIK, MEMBER (JUDICIAL)

Applicant, Shri Dharampal Singh, has filed this OA u/s 19 of the Administrative Tribunal's Act and has prayed that the direction may be issued to the respondents not to terminate his service and that his candidature may be considered for selection alongwith other candidates. It has been further prayed that while making selection to the post of EDBPM, due weightage of provisional appointment be given to the applicant and in case he is not selected for the EDBPM, Rampura, he may be absorbed elsewhere by virtue of his provisional appointment.

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**In The Central Administrative Tribunal
Jaipur Bench, Jaipur**

OA/TA/MP No.

Versus

Date of Order	Orders
	<p>5.12.2001</p> <p>Counsel for applicant..... <u>Mr. K.L. Thawani</u> <i>AKV</i></p> <p>Counsel for respondent..... <u>None</u></p> <p>Adjourned on.....</p> <p>Counsel for applicant.....</p> <p>Counsel for respondent.....</p> <p>Put up on..... <u>5.2.2002</u></p> <p>Admission/Direction/Hearing.....</p> <p><i>5.2.2002</i> By Order Court Officer</p> <p>D. B. not formed today. <u>15.3.2002</u></p> <p>Be listed before D. B. on..... <u>2-1</u></p> <p>Dy. Registrar <u>0570402</u></p> <p align="center">C.A.T. Jaipur Bench</p>
<p>3.4.2002</p>	<p>15/3/02</p> <p>Counsel for applicant..... <u>Sh. K.L. Thawani</u></p> <p>Counsel for respondent..... <u>Sh. Arun Chaturvedi</u></p> <p>Adjourned on request of</p> <p>Counsel for applicant/</p> <p>Counsel for respondent.</p> <p>Put up on..... <u>3.4.12</u>.....for</p> <p>Admission/Direction/Hearing.</p> <p><i>15/3/02</i> By Order Court Officer</p> <hr/> <p>OA NO. 76/99</p> <p>Mr. P.N. Jai, Counsel for the applicant- Submitted that he has also filed vakalatnama in addition to power of Shri K.L. Thawani in this case and seeks a week time to argue the matter. Allowed.</p> <p>Mr. Arun Chaturvedi, Counsel for respondents</p> <p>May be listed for final hearing on</p> <p align="center">(H. O. GUPTA) ADMINISTRATIVE MEMBER</p> <p align="right"><i>S.K. Agarwal</i> (S. K. AGARWAL) Judicial Member</p>

C.A.T. Bench, Jaipur

Date of Order	Orders
15/4/12	<p>Counsel for applicant... Sh. K. L. Thawari</p> <p>Counsel for respondent... Sh. P. N. Jadhav</p> <p>Adjourned on request of Sh. Arun Chaturvedi</p> <p>Counsel for applicant/</p> <p>Counsel for respondent,</p> <p>Put up on... 23/4/12 For</p> <p>Admission/Direction/Hearing.</p> <p>By Order 15/4/12</p> <p>Court Officer</p>
23-4-2012	<p>Case adjourned on request</p> <p>May be listed for admission/direction/</p> <p>hearing on... 31-5-2012</p> <p>Court Officer</p>
31-5-2012	<p>Mr. K. L. Thawari, } Counsel for the applicant</p> <p>Mr. P. N. Jadhav</p> <p>Mr. Arun Chaturvedi</p> <p>None present for the respondents</p> <p>Arguments heard. order</p> <p>Reserved.</p> <p>(J. R. KAUSHIK)</p> <p>JUDICIAL MEMBER</p> <p>A. P. NAGRATH</p> <p>ADMINISTRATIVE MEMBER</p>

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ORDER

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Applicant, Shri Dharampal Singh, has filed this OA u/s 19 of the Administrative Tribunal's Act and has prayed that the direction may be issued to the respondents not to terminate his service and that his candidature may be considered for selection alongwith other candidates. It has been further prayed that while making selection to the post of EDBPM, due weightage of provisional appointment be given to the applicant and in case he is not selected for the EDBPM, Rampura, he may be absorbed elsewhere by virtue of his provisional appointment.


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2. The factual matrix of the case is that applicant was provisionally appointed as EDBPM Rampura, District Jhunjhunu vide charge report dated 8.10.97. The order was issued vide letter dated 3.11.97 (Annexure A/2) and it has been said that the provisional appointment to the said post will be for a period from 8.10.97 to 31.12.97 or till the regular appointment is made, whichever is earlier. The similar type of order has been issued for subsequent period upto 31.1.99. It has also been averred that the applicant submitted documents for regular appointment in response to Circular dated 27.11.97 (Annexure A/8) but the third respondent was proceeding to make another provisional appointment vice the applicant instead of finalising the selection. The applicant's name is registered in the Employment Exchange, Jhunjhunu and he has passed Sr. Higher Secondary examination and thus possess all requisite qualifications for the post of EDBPM. He also belong to SC community. It is submitted that the action for making another provisional appointment was arbitrary.

3. The OA has been filed on the ground that the applicant was working satisfactorily on the post of EDBPM, Rampura, he is entitled for weightage of provisional appointment and experience for regular appointment and he has crossed the age of 27 and belongs to SC community and deserves the sympathy for appointment as EDBPM, Rampura. Hence this application.

4. The show cause notices were issued to the respondents on dated 17.2.99 and status quo as on date was ordered to be maintained.

5. Reply has been filed on behalf of the respondents. In the reply, the respondents have averred that the post of EDBPM, Rampura fell vacant on account of deputation of one



Shri Sajjan Kumar to APS who was holding that post and was selected as Group 'D' APS. A provisional appointment was made and the applicant was appointed w.e.f. 8.10.97. Proposal for redeployment of EDMC/EDDA of EDBO Bas Ghasirm (Alsisar) for Rampura vide letter No. A/Mis/98-99 dated 10.12.98 was made as the distance in between Bas Ghasiram and Rampura is hardly three Kms and EDBO Bas Ghasiram is in huge loss which comes to Rs. 37593/60 per annum as per Triennial review of the EDBO 98-99. The postal traffic of EDBO is poor which can easily be handled by a single man. Therefore, EDMC Bas Ghasiram was ordered to work as EdbPM Rampura terminating provisional arrangement vide letter dated 11.1.99. Further the post of EDBPM, Rampura was required to be kept vacant since Shri Sajjan Kumar, the actual incumbent, was on deputation. The action of the respondents was in conformity and in accordance with rules in force. Possessing of requisite qualification by the applicant does not make any difference in this case. Separate arrangement has made and a regular employee of the department who is a spared EDMC, had been ordered to work as EDBPM Rampura. Therefore, the OA of the applicant may be dismissed with costs.

6. The applicant has filed detailed rejoinder controverting the contentions raised in the reply to the OA. The respondents have also further filed detailed reply in the matter and have also annexed order dated 5.7.2001 passed by this Tribunal in OA No. 26/99 Manna Lal Sharma vs. Union of India & others decided on 5.7.2000.

7. We have heard the learned counsel for the parties and have carefully perused the records of the case.

8. The learned counsel for the applicant has reiterated the facts and grounds raised in the OA. It has been said that the post office is running for many decades and there is a constant need of Branch Post Office. It has also been argued that the respondents are intending to oust the applicant

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from the employment on one pretext or another. It has also been stressed that respondents are not finalising the selection for the reasons that the applicant is entitled to get weightage for his working on provisional basis. It has also been argued that in view of one of the judgements in OA No. 207/99 with OA No. 263/2001, Kailash Chand Sharma vs. Union of India & Others, passed by this Tribunal on dated 14.9.2001, he is entitled to similar relief. There it was held that alternative appointment could be considered in terms of DGP&T letter dated 18.2.79 and circular dated 30.9.99 but the ad-interim order was vacated. At the very outset it could be said that aforesaid judgement in Kailash Chand Sharma vs. Union of India & Others (supra) could not have application in the present case in as much as there is no ground or occasion for consideration of applicant for any alternative appointment. On the other hand we find that the judgement relied upon by the respondents in OA No. 26/99 Maunna Lal Sharma vs. Union of India & Others, passed by this Tribunal on dated 5.7.2000 deals with the similar controversy. The relevant paras 4 & 5 are reproduced as under:-

"4. The applicant was provisionally appointed as EDBPM, Mainas till a regular arrangement could be made to fill the vacancy caused by put off duty and subsequent removal of his predecessor in office. The applicant had, therefore, no vested right on the post of EDBPM, Mainas. We find no fault in the action of the Department, if they decided to make better use of ED staff already available with them and instead of adding one ED staff to their strength, when the nearby EDBO, Dabri Balonda was running at a loss of more than Rs. 24,000 and EDMC of that B.O. could be easily spared to fill the vacancy caused by the removal of the erstwhile EDBPM, Mainas. Being custodian of public exchequer, it is, infact, the duty of the Departments to ensure that expenditure from public exchequer is minimised to the extent possible, and such action of the Department is, therefore, worth appreciation.

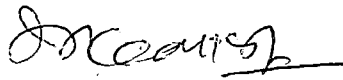
5. We, therefore, find no justification to

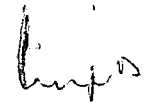


interfere in the actions taken by the respondents and the Original Application is, accordingly, dismissed with no order as to costs."

9. Nextly, we would also like to deal with the prayer of the applicant for grant of weightage for working on provisional basis. The question of grant of weightage on provisional weightage in respect of selection for the post of FD Agents has already been adjudicated upon and settled by the Full Bench of this Tribunal in B. Nagesh & Others vs. Assistant Superintendent of Post Office, reported in Full bench Judgements 1997-2000 CAT (Mumbai) 160. It has been held that no weightage for working as substitute or on provisional is to be given in the regular selection for filling up the post of FDBPM. Thus the applicant has no case and the OA is misconceived and none of the contentions raised is sustainable in law.

10. Seen in all its complexities, we find no justification to interfere in the action taken by the respondents and the OA merits dismissal. We do so. The interim order granted in this case stands vacated forthwith. However, parties shall bear their own costs.


(J.K. KAUSHIK)
MEMBER (J)


(A.P. NAGRATH)
MEMBER (A)

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