

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 21.12.2001

OA No.594/2001

Mahendra Kumar Tanwar s/o Shri Inder Sen Tanwar r/o 106-A
Goverdhan Colony, New Sanganer Road, Sodala, Jaipur

...Applicant

Versus

1. Union of India through the Secretary to the Government of India, Department of Posts, Ministry of Communications, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur
3. Senior Superintendent of Post Offices, Jaipur City Postal Division, Jaipur.
4. Assistant Superintendent of Post Offices, East Sub Division, Jaipur.

.. Respondents

Mr.C.B.Sharma, counsel for the applicant

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CORAM:

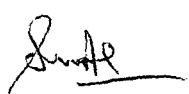
Hon'ble Mr. S.K.Agarwal, Judicial Member

ORDER

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

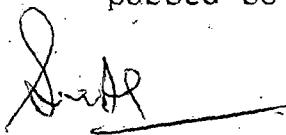
The relief sought by the applicant in this OA is to declare the order at Ann.A1 issued by respondent No.4 as arbitrary, illegal and be quashed.

2. The case of the applicant, in nutshell, is that he was provisionally appointed as Extra Departmental Stamp



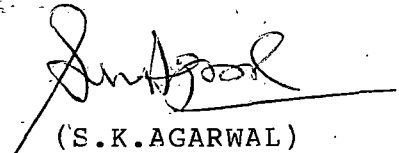
Vendor at Shastri Nagar Head Post Office in place of Shri Ram Babu Khandelwal, who was put off duty due to departmental/judicial proceedings pending against him. The applicant was appointed vide order dated 21.5.99 and he took over the charge of the post. It is stated that respondent No.4 threatened the applicant to dis-engage in the year 2000 for which the applicant approached this Tribunal in OA No. 3/2000 and this Tribunal decided the aforesaid OA vide its order dated 23.3.2001. It is stated that applicant has completed two years and eight months of service with entire satisfaction of respondent No.4, but respondent No.4 is adamant to dis-engage the applicant who is not competent to take decision regarding abolition or creation of the post. Therefore, action of the respondents to dis-engage the applicant is totally arbitrary, unreasonable and liable to be quashed.

3. On perusal of the averments and documents submitted by the applicant it becomes clear that applicant was provisionally appointed and in the order of appointment it has been made clear that services of the applicant would be terminable without any notice. On perusal of the order at Ann.A1, it appears that the department has abolished the system to continue the provisional appointees. Therefore, in view of this the services of the applicant is to be terminated. This order has been issued by the Assistant Superintendent of Post Offices to Dakpal, Shastri Nagar, Jaipur, but in pursuance of this no order of termination of the applicant has been passed so far.



4. In Superintendent of Post Offices and ers. v. E..Kunhiraman Nair Muliya, (1998) 9 SCC 255, Hon'ble the Supreme Court has observed that temporary and provisional appointment of EDBPM with the stipulation that the same would be terminable at any time without assigning any reason and that his services would be covered by the Posts and Telegraphs ED Agent (Conduct and Service) Rules, termination of such appointment on administrative grounds is the termination simplicitor and not stigmatic.

5. In this case no order of termination has been passed and this OA appears to be premature. Therefore, in view of the law laid down by the Supreme Court as aforesaid, the applicant's case is premature as well as does not stand on merits. Therefore, this OA is dismissed in limine.



(S.K.AGARWAL)

Judl.Member