

May 1st 2002
On
11/2

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

AM (11)

O.A. No. 499/02 with MA 553/02

200

T.A. No.

DATE OF DECISION _____

Chotu Ram

Petitioner

Mr. Kamveer

Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondent


Mr. Arun Chaturvedi for R - 1 to 3 Advocate for the Respondents(s)

Mr. Pyare Lal for R- 4.

CORAM:

The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

The Hon'ble Mr. R.K. Upadhyaya, Member (Administrative)


(R.K. Upadhyaya)
MEMBER (A)

(G.L. GUPTA)
VICE CHAIRMAN

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 11.07.03

OA 499/2002 with MA 553/2002

Chotu Ram s/o Shri Mohan Lal r/o Village & Post Tograkhurd, Tehsil & District Jhunjhunu.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. Post Master General, Western Region, Jodhpur.
3. Supdt. of Post Office, Jhunjhunu.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

HON'BLE MR.R.K.UPADHYAYA, MEMBER (A)

For the Applicant

... Mr.Karmveer

For Respondent No.1to3

... Mr.Arun Chaturvedi

For Respondent No.4

... Mr.Pyare Lal

O R D E R

PER MR.JUSTICE G.L.GUPTA

The order of termination dated 11.11.2002 is under challenge in the instant OA.

2. The applicant, who belongs to Scheduled Caste, is a permanent resident of Village Tograkhurd. He was appointed on the post of Branch Post Master, Tograkhurd, vide order dated 24.1.2002. It is averred that the applicant was working sincerely on the post but all of a sudden without showing any cause or giving any notice, the respondents have terminated his services by the order dated 11.11.2002, copy of which was not supplied to him. It is stated that termination of services of the applicant is illegal.

3. In the counter, the respondents' case is that the applicant was given appointment on provisional basis after the termination of service of Shri Sumer Singh and the applicant did not acquire a right to hold the post. It is stated that vide order ated 21.10.2002 the Directorate of Postal Department directed not to run any provisional appointment in any circumstances, therefore, the term of the applicant was not extended. It is also the case for the respondents that the Inspector Post Office visited Tograkhurd Branch Post Office on 12.11.2002 but the applicant was found absent from duty and he was also not found on duty on 14.11.2002.



4. Sumer Singh has filed MA for his impleadment in the OA.

5. We have heard the learned counsel for the parties and perused the documents placed on record.

6. The facts stated in the reply indicate that on 10.8.2000 a notification to fill up the post of Branch Post Master was issued by respondent No.3. The post was meant for SC category candidate. The last date for submission of application form was fixed as 10.9.2000. In response to the said notification, eleven applications were received including the applications of one Sumer Singh and the applicant. After scrutiny, Sumer Singh was placed at S.No.1 in the merit list and the applicant was placed at No.2. Sumer Singh was given appointment. He worked from 28.5.2001 but his services were terminated on 23.1.2002 and thereafter the applicant was appointed.

7. Today we have decided OA 205/2002 filed by Sumer Singh challenging the termination of his services. That OA has been allowed. The effect of the order passed in the matter of Sumer Singh is that his termination order has been held to be illegal and he shall be reinstated on the post.

8. The applicant was given appointment on provisional basis after the termination of the services of Sumer Singh. It is relevant to point out that in the appointment order dated 6.8.2002 (Ann.A/1) it was clearly stated that appointment of the applicant was on provisional basis. It was also stated in the order that the appointment would take effect w.e.f. 23.1.2002 to 31.10.2002 or decision of the CAT case filed by Sumer Singh, whichever is shorter.

9. It is evident that the appointment of the applicant was on provisional basis and it was offered for the period the case filed by Sumer Singh was decided. Since Sumer Singh has succeeded in getting the termination order quashed, the claim of appointment of the applicant automatically fails.

10. The respondents had however terminated the services of the applicant on the basis of the directions received from the Directorate vide communication Ann.R/3. In the communication Ann.R/3 it was stated that the provisional appointments could be resorted to only in cases where the regularly appointed person was unable, quite unexpectedly, to undertake his duties, due to unauthorised absence, fraud and misappropriation or due to circumstances beyond his control.



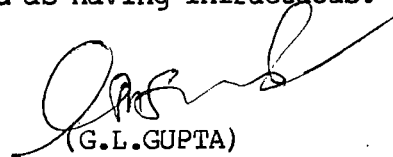
11. The direction to the applicant to work on the post from 23.1.2002, for which order was issued on 6.8.2002, was clearly a stop-gap arrangement. The appointment was made till 31.10.2002. It is not the case for the applicant that the term of appointment had been extended thereafter. Therefore, even as per the terms of the appointment order (Ann.A/1) the respondents were bound to terminate the services of the applicant from 31.10.2002. No illegality is found when the applicant was not allowed to work after 11.11.2002.

12. We find no merit in the instant OA and dismiss it with no order as to costs. The MA filed by Sumer Singh is dismissed as having infructuous.



(R.K.UPADHYAYA)

MEMBER (A)



(G.L.GUPTA)

VICE CHAIRMAN