

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.X. No. . 12 . . . of 1998.

DATE OF DECISION . 22-3-2001.

Sri Oinam Rajendra Singh

PETITIONER(S)

Dr. N.K. Singh

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Sri A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE ~~THE~~ MR. JUSTICE D.N. CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

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

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 12 of 1998.

Date of Order : This the 22nd Day of March, 2001.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

The Hon'ble Mr K.K.Sharma, Administrative Member.

Shri Oinam Rajendra Singh,
son of late Oinam Maniayaima Singh,
Thanga Karang, Manipur.

... Applicant

By Advocate Dr N.K.Singh.

- Versus -

1. Union of India,
represented by the Director of Postal
Services, Manipur Division,
Imphal.

2. The Superintendent of Post Offices,
Manipur Division,
Imphal.

3. Sub-Divisional Inspector of Post Office,
Churachandpur, Sub Division,
Churachandpur, Manipur.

4. Shri S.Nilo Singh, BPM, Thanga Karang,
Manipur.

... Respondents.

By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J. (V.C)

This is an application under Section 19 of the Administrative Tribunals Act 1985 assailing the communication dated 6.9.97 sent by the Sub-Divisional Inspector of Post Offices, Churachandpur to the Office Superintendent, Mails, Moirang for making arrangement to hand over the charge of BPM Thanga Karang BO to the respondent No.4 terminating the temporary arrangement.

2. The applicant was appointed in the post of BPM at Thanga Karang branch post office at Thanga Karang by an order dated 5.7.94. According to the applicant he was given charge

on 28.7.94 with fresh records from Moirang sub post office as the earlier records could not be obtained from the former Branch Post Master. According to the applicant his service was extended from time to time till the impugned development took place pursuant to the communication dated 6.9.97. By the aforementioned communication the Sub-Divisional Inspector of Post Offices at Churachandpur directed the Office Superintendent, Mails to hand over the charge to respondent No.4, S.Nilo Singh terminating the temporary arrangement. The applicant assailed the aforesaid notice as arbitrary and discriminatory.

3. The respondents submitted its written statement and stated that respondent No.4 was put off from service for committing some irregularities and it was decided to take disciplinary action against him under Rule 8 of Extra Departmental Conduct and Service Rules 1964. Since the respondent No.4 was put off from service and as a temporary measure the applicant was appointed as EDBM of Thanga Karang. The enquiry initiated against respondent No.4 was concluded and he was exonerated from all the charges and therefore with a view to reinstate the respondent No.4, the aforesaid measure was taken.

4. Dr N.K.Singh, learned counsel for the applicant submitted that the applicant was appointed after following a due procedure for appointment of BPM. The Superintendent of Post Offices, Manipur Division sent requisition to the District Employment Exchange for sponsoring 3 candidates within the specified period indicating the age qualification etc. for the post of BPM. The applicant among others submitted his application. The respondents authority held interview for selection of a BPM at Thanga Karang and after considering

the respective candidates the respondents authority found the applicant eligible for the post and accordingly he was offered with the appointment order. Dr Singh further submitted that the appointment of the applicant was regular appointment for all practical purposes and though the appointment was shown as provisional, he could not have been terminated without adopting the due procedure of law. Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents on the other hand, submitted that the appointment of the applicant was purely a stop gap arrangement, due to the reason that respondent No.4 the regular EDBM of Thanga Karang was put off from his duty pending the departmental proceeding. In the proceeding the respondent No.4 was exonerated and therefore the respondent ^{be put} No.4 was to place in his right place and in this circumstances the applicant had to be terminated. The applicant was no doubt appointed after holding a proper selection. The notice to Employment Exchange also did not indicate that the appointment was to be made as a stop gap arrangement. The appointment letter dated 5.7.94 also did not indicate that the appointment was relating to a post held by a person who was put off from duty. On the other hand the appointment letter itself indicated that the applicant would be governed by the Extra Department Agents (Conduct and Service) Rules 1964. The respondents no doubt appointed person on holding a selection but fact remains that the post sought to be filled up was the post against which a person was working who was only put off from duty for holding the enquiry. The appointment letter itself indicated that the appointment was provisional and his service would be terminated when regular appointment was to be made. Dr Singh further submitted that the said clause did not indicate that the applicant was

appointed to a post against which some one was holding the lien. Notwithstanding the aforesaid clause as was indicated by Dr Singh the appointment of the applicant could not be held to be made against a ^{Substantive} ~~substitute~~ post, the post was held by S.Nilo Singh, who was only put off from the duty. After conclusion of the enquiry when respondent No.4 was exonerated the applicant had to go to enable the respondent No.4 to join his substitute post.

3. In the circumstances we do not find any illegality in the direction issued by the respondents directing the Office Superintendent to make arrangement for handing over the charge of the applicant to respondent No.4. Dr Singh submitted that since the applicant was found suitable after a selection, a direction should be issued on the respondents to consider his case for appointment against any such post. We are no aware of the ^{in actuality and/or of the} ~~full~~ situation and ^{in actuality and/or of the} ~~grounds of existence~~ of vacancy. We however, feel that if any future vacancy arise the case of the applicant may also be considered alongwith others subject to fulfilment of the eligibility.

4. The application is accordingly disposed of. No order as to costs.

K. K. Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

(D.N.CHOWDHURY)
VICE CHAIRMAN