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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. NO. 235 / 2003

Hon'ble Mr. R.K. Upadhyaya, Administrative Member :-

For consideration please.

I agree  
C. B. Upadhyaya  
1.5.03

  
(J.K. KAUSHIK)  
JUDICIAL MEMBER  
01/05/2003

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 235 of 2003

Jabalpur, this the 2<sup>nd</sup> day of May 2003

Hon'ble Shri R.K. Upadhyaya -- Administrative Member.  
Hon'ble Shri J.K. Kaushik -- Judicial Member.

Madhur Mathur, S/o. Ganesh Prasad  
Mathur, aged about 28 years, Branch Post  
Master, Post Office Mangrol, Tehsil  
Savalgarh, District Morena, Madhya  
Pradesh.

... Applicant

(By Advocate - Smt. S. Menon)

V e r s u s

1. Union of India,  
Through : Secretary, Ministry of  
Post & Telegraph, Sanchar Bhawan,  
New Delhi.
2. Post Master General, Indore Region,  
Indore.
3. Superintendent of Post Offices, Chambal  
Division, Morena District, Morena. ... Respondents

O R D E R

By J.K. Kaushik, Judicial Member :-

Shri Madhur Mathur has filed this original application and sought the following reliefs :-

"direct the respondents to consider the applicant for appointment to the post of Extra Departmental Branch Post Master, Mangrol, in pursuance to the notification dated 20/12/2000 Annexure A-5 and/or direct the respondents to regularise the services of applicant on the post of Extra Departmental Branch Post Master for the reasons mentioned in the aforescceeding paras;"

2. This is a second round of litigation in the same matter. The applicant has earlier filed an original application, wherein he challenged a notification dated 12/07/2001 through which applications were called for filing

*J* up one post of Extra Departmental Branch Post Master from

Scheduled Caste candidates. The applicant was appointed on **provisional** basis vide order dated 14/12/1999 for a period of 89 days and the same was extended. An advertisement was issued vide letter dated 20/12/2000. The applications were called from the eligible candidates. The applicant fulfilled the eligibility condition and accordingly applied for the same.

3. This Bench of the Tribunal was pleased to dispose of the earlier original application No. 501/2001 filed by the applicant vide order dated 23/10/2002. The <sup>as</sup> operative portion is/ under :-

"7.1 The basic issue for consideration of this Tribunal is whether the notification dated 12.7.2001 (Annexure A/1) is in accordance with the existing rules on the subject as noticed earlier. This is in violation of the provisions regarding appointment of an EDBPM and also against the DGP&T instructions dated 13.3.1984 reproduced earlier. Therefore, Annexure A/1 is hereby quashed. The respondents are directed to complete the selection process as per their notification dated 20.12.2000 (Annexure A/5)/(Annexure R/2). It may be reiterated that the selection so made will be in accordance with the existing rules and instructions on the subject, which provide for preference to SC candidates, if otherwise, eligible. While holding the fresh selection, the case of the applicant is stated to have also applied in pursuance to the notification dated 20.12.2000. The applicant may be replaced by the duly selected candidate immediately after the finalisation of the selection process without any further notice.

8. In the result, this application is partly allowed to the extent indicated above alongwith the observations in the preceding paragraphs without any order as to costs. The interim order dated 19.11.2001 stands vacated."

In the present original Application also the applicant has asked for the reliefs that his case may be considered for appointment to the post of EDBPM, Mangrol in pursuance to the notification dated 20/12/2000 or else the respondents be directed to regularise the services of the applicant on the post of EDBPM. At the very outset, the perusal of the aforesaid observation of this Tribunal comes to show that the



respondents were already directed to consider the candidature of the applicant and issued a direction to the respondents that the applicant may be replaced only by the duly selected candidates after facing all the selection process without any **further** notice. Thus the main issue has already been settled by this very Bench of the Tribunal. Thus the original application is hit by the doctrine of res-judicata and as such deserves to be dismissed, on this count alone. The learned counsel for the applicant has also reiterated the facts and grounds raised in the appeal and he has submitted that the applicant has been working for a long time satisfactorily and he should be regularised on the post of EDEPM. However despite specific questions the learned counsel for the applicant could not bring to our notice any scheme of regularisation in relation to the Extra Departmental Agents. In our considered opinion the regularisation of an individual can be only done when there is a scheme and the individual fulfills the terms and conditions laid down in the said scheme. In this view of the matter the question of regularisation of the applicant does not arise at all. **This** <sup>is</sup> besides the fact that the EDEPM post is a selection post and the selection is mainly based on the marks obtained in the High School Examination.

4. The another limb of the argument of the learned counsel of the applicant is ~~xxxy~~ that the applicant entitled **to a** weightage of the service rendered by him on the post of EDEPM. We are not in a position to subscribe with his views, **since** the Full Bench of this Tribunal in the case of D.N. Nagesh & ors. Versus The Assistant Superintendent of Post Offices (Full Bench Judgment 1997-2000 Mumbai CAT Page 160) has categorically ruled out that no weightage is permissible for working on **provisional** basis in a selection

*[Signature]*

post. Thus this contention of the learned counsel for the applicant has also no force in the eye of law.

5. In the premises the original application fails on all count and merits rejection on merits as well as it is hit by the doctrine of res-judicata. The same stands dismissed in limine at admission stage itself.

*J. K. Kaushik*  
(J. K. KAUSHIK)  
JUDICIAL MEMBER

Ch. B. Upadhyaya  
(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

पूछांक्ज सं. ओ/न्या..... जवलपुर, दि.....  
प्राचिलिपि अन्ते लिपि.....

(1) दिल्ली, १९२५ वर्ष  
मिस्ट्री एवं विदेश जलवायन  
(2) दिल्ली, १९२५ वर्ष  
मिस्ट्री एवं विदेश जलवायन  
(3) दिल्ली, १९२५ वर्ष  
मिस्ट्री एवं विदेश जलवायन  
(4) कोलकाता, १९२५ वर्ष  
मिस्ट्री एवं विदेश जलवायन  
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Issued  
12.5.03  
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John S. Green  
8/5/03

"SA"