

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH**

Jaipur, this the 29th day of March, 2010

Original Application No.476/2006

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMV.)

Nathu Lal
s/o Hajari Lal, presently working as
Gramin Dak Sewak (Mail Career),
Vijay Nagar Railway Station, PO Vijay Nagar,
District Ajmer (Rajasthan),
r/o Jat Handi, Raj Nagar, Vijay Nagar,
Distt. Ajmer.

.. Applicant

(By Advocate: Shri N.C.Goyal)

Versus

1. Union of India
through the Secretary,
Department of Post,
Ministry of Communication,
New Delhi.
2. Chief Post Master General,
Rajasthan Circle,
Sardar Patel Marg,
Jaipur
3. Superintendent of Post Offices,
Beawar Division,
Beawar, District Ajmer.
4. Shri Ram Singh,
Working as Postman,
Nasirabad, now Jeep Driver,
Office of Superintendent of Post Offices,
Beawar Distt. Ajmer.

.. Respondents

(By Advocate: Shri V.S.Gurjar)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- a) By an appropriate order or direction or writ after summoning the entire record and after examination of the same, may be pleased to quash and set aside the order of appointment of Respondent No.4 (Annexure A-1) and the applicant be allowed to continue on the post of Jeep Driver lying vacant in the office of the Superintendent of Post Offices, Beawar with all consequential benefits including pay and allowances etc. of the post of Jeep Driver.
- b) That after appointment on the post of Jeep Driver, the respondent be directed to regularize the applicant.
- c) Any other order or directions which is in favour of the applicant may also be issued.

2. Briefly stated, facts so far as relevant for disposal of this case, are that the post of Jeep Driver in Beawar Division was lying vacant on account of death of the regular Driver. Vide letter dated 8.2.2005 (Ann.A/3), the respondents circulated the said vacancy calling for applications from the category of Postman and Gram Dak Sevak to be filled in on short terms temporary basis. It was also made clear in the said order that the applicant to the said post will not claim any regular posting on that basis and the arrangement was temporary and further liable to be terminated at any time. Pursuant to the said letter Ann.A/3, four applications were received and the applicant was engaged as outside Driver vide order dated 2.3.2005 (Ann.A/4) on temporary basis with minimum pay and allowances on the post



of Driver with clear understanding that he will not be eligible for permanent posting as Driver on that account. It is admitted case that the applicant worked as outside Driver for a period w.e.f. 1.3.2005 to 1.11.2006. It may also be relevant to mention that the applicant has also given undertaking to the effect that he is willing to work as outside Driver and will not claim any service benefit for his working as outside Driver. The temporary arrangement so made pursuant to Ann.A/3 was discontinued by the respondents and in his place respondent No.4 who was holding the post of Postman, Nasirabad in the regular pay scale of Rs. 3050-4590 which pay scale was identical to that of the post of Driver, was subsequently engaged as Driver on temporary basis which resulted into relieving of the applicant w.e.f. 1.11.2006. The grievance of the applicant is that action of the respondents in disengaging services of the applicant and engaging respondent No.4 as Driver is arbitrary. It is on the basis of these facts, the applicant has filed this OA.

3. Notice of this application was given to the respondents. The facts, as stated above, have not been disputed. The respondents have stated that since respondent No.4 was willing to work on the post of Driver and he has submitted an application dated 11.10.2006, the matter was considered by the appropriate authority and the applicant was relieved from the post of Driver on 1.11.2006 (A/N) on termination of temporary arrangement so made keeping in view the interest of the department as respondent No.4 who also possesses driving licence having validity w.e.f. 4.8.2006 to 30.8.2009 and was in identical pay scale of the post of Driver was engaged in



place of the applicant. According to the respondents, it was not necessary to give any show-cause notice to the applicant in view of the terms and conditions stipulated in the appointment letter dated 2.3.2005 (Ann.A/4) whereby it was stipulated that service of the person can be dispensed with at any time.

4. We have heard the learned counsel for the parties and gone through the material placed on record.

5. From the facts as stated above, it is evident that vide Ann.A/3 dated 8.2.2005 applications were invited from Gramin Dak Sevaks for filling the post of Driver on short terms/temporary basis. It was specifically mentioned in that advertisement that arrangement is temporary and will not confer any right for the purpose of regularisation and this temporary arrangement can be discontinued at any time. Pursuant to such condition incorporated in the advertisement, the applicant was issued appointment letter dated 2.3.2005 (Ann.A/4) whereby one of the conditions stipulated in the appointment letter was that such appointment is purely on temporary basis and such arrangement can be terminated at any time. Thus, in view of the stipulation contained in Ann.A/4, service of the applicant was discontinued by the respondents and in his place respondent No.4 who was possessing driving licence and was also in the identical pay scale, which was admissible to the post of Driver, was engaged by the respondents.

6. The question which requires our consideration is whether such action of the respondents is arbitrary. According to us, it is not permissible for us to interfere in such matters especially when the

respondents have taken decision in the interest of the department that instead of giving regular pay scale to the applicant, which may cause some burden on the state exchequer, the post of Driver should be filled in temporarily from a person who was in the same pay scale as is admissible to the post of Driver. Thus, under these circumstances, it cannot be said that action taken by the respondents is arbitrary. It is not a case of such nature where the applicant who is Gramin Dak Sevak was replaced by another person belonging to that category. In the instant case, the applicant, a Gramin Dak Sevak is being replaced by another person who was holding higher post and drawing pay scale which is equivalent to the post of Driver. Thus, in case the respondents have taken decision keeping in view the interest of the department to engage respondent No.4 as Driver on temporary basis, no infirmity can be seen in such action.

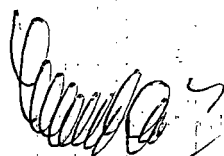
7. Besides it, the applicant has no legal right to hold the post of Driver which post has to be filled in on regular basis on the basis of the provisions contained in the recruitment and promotion rules of that post. Thus, no mandamus can be issued to the respondents to allow the applicant to continue against the post of Driver.

8. For the foregoing reasons, the OA is dismissed with no order as to costs.


(B.L. KHATRI)

Admv. Member

R/


(M.L. CHAUHAN)

Judl. Member