

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 216/2003

Thursday, this the 4th day of September, 2003

HON'BLE MRS. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J)

Shri Surjeet Singh,
S/o Late Sh. Harbans Singh,
Last employed as part time Waterman,
in Shakur Basti R.S. Post Office, Delhi-34
R/o E-5/146, Sultan Puri, Delhi-41
Address for service of notices
C/o P.S. Yadav, Advocate,
CH. No. 199, Western Wing,
Tie-Hazari Court, Delhi-54

... Applicant

(By Advocate : Shri P.S. Yadav)

Versus

Union of India : Through

1. The Secretary,
Ministry of Communication,
Department of Posts
Dak Bhawan, New Delhi-110001
2. The Sr. Superintendent of Post Offices,
Delhi North Division, Civil Lines,
Delhi - 54
3. The Sub Post Master (HSG-I)
Shakur Basti R.S. Post Office,
Delhi - 110 034
4. The Asst. Superintendent of Post Offices,
III-Sub Division Rohini, Post Office,
Delhi-85

... Respondents

(By Advocate : Shri R.N. Singh)

O R D E R (ORAL)

By Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J) :

In this application, the applicant has impugned the verbal order of termination from service given by the respondents on 16.10.2001. He has sought a direction to the respondents to reinstate him in service as a part-time Waterman at Shakurbaati R.S. Post Office, Delhi, i.e., the post he was holding at the time of termination or in the alternate, at any other Post Office in Delhi with all

consequential benefit of continuity of service, including full back wages.

2. The respondents have opposed the above prayers, mainly on the ground that the Judgement/Order of the Tribunal dated 27.8.2001 in Smt. Kamlesh vs. Union of India and Others (OA No.2673/2000) in which the present applicant had been impleaded as respondent No.5 had to be complied with by them.

3. A ground has been taken by the learned counsel for applicant that while passing the aforesaid impugned verbal termination order on 16.10.2001, the respondents have failed to comply with the principles of natural justice in so far as not even issuing a show cause notice to the applicant or giving him an opportunity of being heard before the same was passed. The learned counsel for the applicant has stated that it was the wrong action of the respondents which has led to the grievance of the applicant, namely, his posting from Shakurbasti R.S. Post Office to Nangloi Post Office from 1.6.1997 to 24.9.1999. He has submitted that the Tribunal had only partly allowed Smt. Kamlesh's case (supra) as no directions were given to the respondents that while Smt. Kamlesh/applicant in that OA should be appointed as part-time Waterwoman against the post notified by the Department through the Employment Exchange, at the same time, the applicant should be dis-engaged or the applicant's services should be terminated, as they have done. He has also relied on the reply filed by the respondents in Smt. Kamlesh's case (supra) in which it had been stated, inter alia, that the applicant in the present OA has been working

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as part-time Waterman for the past 10 years and had to be given preference to Smt. Kamlesh who had much less period of working as part-time employee.

4. On the other hand, Shri R.N. Singh, learned counsel for respondents, has submitted that in the light of the findings of the Tribunal vide order dated 7.8.2001, no illegality or arbitrary action has been taken by the respondents which justifies any interference in the matter by the Tribunal. He has also submitted that if the applicant is aggrieved by the Tribunal's order in Smt. Kamlesh's case (supra), his remedy lies elsewhere. He has also vehemently opposed the contention of Shri Yadav, learned counsel for applicant, that they have violated the principles of natural justice in the case. According to the learned counsel for respondents, as no appeal was filed against the Tribunal's order dated 7.8.2001, the same had to be implemented as per the directions given there. He has also submitted that as the present applicant was impleaded by Smt. Kamlesh as Respondent No.5 in OA 2673/2000, the principles of natural justice have also been fully complied with and there is no illegality committed by the respondents.

5. I have considered the pleadings and submissions of both the parties. I find no merit in the application for the following reasons:-

(a) The applicant was impleaded as respondent 5 by Smt. Kamlesh in OA 2673/2000 and he had been given full opportunity to put forward his case before the

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Tribunal. As a Co-ordinate Bench, it is not appropriate or legal for this Bench to re-hear and adjudicate the same issues already agitated in the previous OA.

(b) If the applicant is aggrieved by any finding of facts or law in the aforesaid order of the Tribunal dated 7.8.2001 in Smt. Kamlesh's case (supra), he could have availed of such remedies as are open to him, in accordance with law. However, the applicant cannot re-agitate the same facts or the findings of the Co-ordinate Bench of the Tribunal by filing another Original Application under Section 19 of the Administrative Tribunals Act, 1985.

(c) In this regard, it is also relevant to note that the learned counsel for applicant has submitted that what the applicant is aggrieved is the action taken by the respondents way back in 1997 and 1999, i.e., transferring him from one Post Office to another as a part-time Waterman. If that is so, he ought to have agitated those points at the relevant time in accordance with law. He cannot now re-agitate those issues before the Tribunal, especially after the Tribunal's order dated 7.8.2001 in OA 2673/2000. In paragraph 6 of the Tribunal's order dated 7.8.2001, the submissions of the learned counsel for applicant have been noted and it has also been stated that "the respondent No.5 was very well-versed with the situation who had left services of the respondents and had preferred to join as a substitute employee

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for some other employment when the applicant was appointed vide annexure A-7". In paragraph 7 of the said order it has further been held that considering these conditions, the appointment of applicant (Smt. Kamlesh) was against the vacancy duly notified by the Department in the Employment Exchange and accordingly the OA was allowed with a direction to the official respondents to re-engage the applicant. Having read and re-read the Tribunal's order, I am not able to agree with the contentions of Shri P.S. Yadav, learned counsel for applicant that the OA has only been partly allowed. In the facts and circumstances of the case, it cannot be held that the action taken by the respondents is either illegal or arbitrary or has been done in violation of the principles of natural justice, while taking action to implement the Tribunal's order dated 7.8.2001.

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(d) I am also not impressed by the submissions of the learned counsel for applicant based on the averments made by the respondents in Paragraph 5.2 of the reply filed by them in OA 2673/2000. In the light of Tribunal's order dated 7.8.2001, what is relevant to take into account at this stage is the reasoning and conclusions of the Tribunal. It is not disputed by the learned counsel for applicant that the order dated 7.8.2001 has become final and binding and no appeal has been filed against that order. I have also considered the other submissions made by the learned counsel for applicant.

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6. In view of the above reasons, I do not find any justification to interfere in the matter, taking into account also the fact that one Co-ordinate Bench cannot sit as an appellate Court over another Co-ordinate Bench. Accordingly, the OA is dismissed.

No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN (J)

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