

(2007) 02 DEL CK 0213

In the Delhi High Court

Case No : Writ Petition (C) 3481 of 2003 and CM 5954 of 2003

Krishan Bharadwaj

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 27-02-2007

Acts Referred:

Citation : (2007) 02 DEL CK 0213

Hon'ble Judges : Mukul Mudgal, J; Aruna Suresh, J

Bench : Division Bench

Advocate : Aly Mirza, for the Appellant; Jyoti Singh, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.—Rule DB.

2. With the consent of both the parties, the Writ Petition is taken up for final hearing.

3. The O.A. being No. 861/2003 filed by the Petitioner before the Central Administrative Tribunal, Principal Bench, New Delhi with the following prayers:

(a) quash and set aside the impugned order of termination of services of the applicant dated 25/26.3.2003.

(b) direct respondents to regularize the services of the applicant at the post of Gramin Dak Sewak Branch Post Master for which he is fully eligible.

4. The said O.A. was dismissed on the ground that the Petitioner had been working only provisionally from 4.12.1998 and pursuant to the advertised vacancy Smt. Kamlesh Kumari was selected and appointed to the regular post. Thus, it is clear that in so far as the appointment of Smt. Kamlesh Kumari and prayer "a" of the Petitioner's in OA is concerned, no orders can be passed in favor of the Petitioner as he can not in any manner question the recruitment of Kamlesh Kumari. Hence, the order of the Tribunal on this score is fully justified

and does not warrant interference.

5. The learned Counsel for the Petitioner however, sought to confine his prayer to consideration of the Petitioner's case for alternative employment as a lesser prayer encompassed in prayer (b) as per the P and T EDAs (Conduct and Service) Rules, 1964. Para (15) Provisional appointment of ED Agents, Sub para (ii) on which the Petitioner based his claim reads as follows:

(ii) Wherever possible, provisional appointments should be made only for specific periods. The appointed person should be given to understand that the appointment will be terminated on expiry of the specified period and that he will have no claim for regular appointment. Where a new Post Office is opened or where a new post is created or where an ED Agent dies while in service or resigns from his post and it is not possible to make regular appointment immediately, a provisional appointment should be made for a specific period.

6. While we are satisfied that Tribunal's order does not call for any interference, in the facts and circumstances of the case as a lesser prayer of prayer (b) made by the Petitioner, we are of the view that the Respondents may consider the Petitioner's case as per the aforesaid instructions and take action in accordance with the said Para (15) Provisional appointment of ED Agents, Sub para (ii).

7. The said consideration be done on or before 31st August, 2007 and the order of consideration is to be communicated to the Petitioner within four weeks thereafter. In case the Petitioner is aggrieved by the order passed on the Petitioner's claim it shall be open to the Petitioner to challenge the same according to law.

The Writ Petition and CM stand dismissed and hence disposed of accordingly.