

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-14005-2014 (O&M)

Date of Decision: May 02, 2017

Union of India and others

.....Petitioners

Versus

Sant Ram and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Namit Kumar and Mr.Dheeraj Chawla, Advocates
for the petitioners.

Mr.R.S.Hooda, Advocate
for respondent No.1.

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SURYA KANT, J.

The instant writ petition has been filed by Union of India through Department of Posts, challenging the order dated 20.11.2013 passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for brevity, 'the Tribunal') whereby the Original Application filed by the first respondent was allowed and a direction for his reinstatement as 'E.D.Mail Packer' and to release the withheld payment has been issued.

[2] The first respondent was engaged as a part-time Chowkidar on 29.11.1989. He was assigned the duties of 'ED Mail Packer' on 21.07.2011, but subsequently such duties were withdrawn and unfortunately his services

were dispensed with. The first respondent challenged the action before the

Tribunal and having found that the first respondent was working as 'ED Mail Packer' since 1993 and had worked for 24 years, the Tribunal issued the direction for his reinstatement with a further direction that the power of relaxation as conferred under the Rules be invoked with a view to mitigate undue hardship.

[3] The case was heard on different occasions when this Court impressed upon the petitioners to adjust the first respondent against some post as per his eligibility keeping in view the fact that he has served the Department for more than 24 years. The purpose of such suggestion was to ensure that the first respondent is not compelled to serve as a part-time Chowkidar through-out his service career. It was in this backdrop that this Court formulated the following queries on 27.02.2017:

“(i) Against which post respondent No.1 is proposed to be adjusted if all the posts of part-time Chowkidar are to be abolished?

(ii) Whether respondent No.1 satisfactorily performed the duties of ED Mail Packer from 21.07.2011 to 07.01.2012, and if not, let the adverse report, if any, be produced?

(iii) How much is the difference of pay between the post of Chowkidar and the post which the authorities are inclined to offer to the first respondent?

(iv) Why the power of relaxation in academic qualification cannot be exercised, it being an exceptional case for the reason that respondent No.1 has already acquired sufficient working experience in the Department which is better than the academic qualification of 8th standard?”

[4] In deference thereto, Mr.Rohtash Singh, Superintendent of Post Offices, Faridabad Division, Faridabad, has filed his affidavit taking a fair

stand in the following terms:

“2. That it is respectfully submitted that Sh.Sant Ram, respondent No.1, is proposed to be adjusted against the post of MTS. The case is under examination and will be considered in DPC shortly. Respondent No.1 performed his duties as E.D.Mail Packer satisfactorily from 21.07.2011 to 07.01.2012. The allowances of respondent No.1 as Part Time Chowkidar are Rs.1675+DA and if adjusted against MTS, his pay will be Rs.18000+DA. No educational qualification for the post of MTS from casual labourer has been prescribed.”

[5] In view of the fact that the authorities have decided to adjust the first respondent against the post of MTS (Multi Task Staff), nothing survives to be decided on merit in this writ petition, which is accordingly disposed of though with a direction that let DPC meeting be convened as early as possible and not later than two months from the date of receipt of a certified copy of this order and based upon the recommendations of the DPC, let respondent No.1 be adjusted against the post of MTS within three months.

(SURYA KANT)
JUDGE

May 02, 2017
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(SUDIP AHLUWALIA)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |