

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

CA-608/91

DATE OF DECISION 23-9-93

Sh. Praveen Kumar	Petitioner
Mr. O.P. Saxena	Advocate for the Petitioner(s)
Versus	
U.O.I. & Ors	Respondent
Mrs. Kum Kum Jain	Advocate for the Respondent(s)

CORAM**The Hon'ble Mr. N.V. Krishnan, Vice Chairman (A)****The Hon'ble Mr. B.S. Hegde, Member (J)**

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

JUDGEMENT (O.A.L)

(delivered by Sh. N.V. Krishnan, V.C. (A))

This case has been called out for the second time today. Neither the applicant nor his counsel nor the respondent or his counsel was present. The matter was heard on 19.3.93 and left part heard. Further hearing was given on 23.4.93 and the case was still left part heard.

2. Today when the case is called out, none is present

✓ for either party. We, therefore, proceed to dispose of this O.A. on merits.

3. The applicant is aggrieved by the order dated 25-9-90 (Annexure-A) of the Respondent No.2 informing him that he was appointed as Naib Patwari in a purely temporary and adhoc basis for a period of one month w.e.f. 18.12.89 and on completion of one month, his service was terminated w.e.f.

17.1.90(AN) Applicant has prayed to quash and set aside the impugned order dated 25.9.90(Annexure-A) of the IIInd respondent and direct the respondent to regularise the service of the applicant as Naib Patwari and to pay to applicant his allowance since then w.e.f. 18.12.89(the date of initial joining) till re-instatement.

4. The applicant has produced the offer of appointment as Naib Patwari vide Annexure-D dated 18.12.89 and his appointment order issued at Annexure-E. We notice that the said appointment order is issued vide letter Annexure-E dated 25.9.90.

5. Respondents have filed their reply denying that any relief is due to the applicant. It is stated that impugned order is legal and that the applicant was appointed purely on adhoc temporary basis. Hence the termination order was in order.

6. This C.A. was heard on two occasions earlier,

One of the grounds raised by the applicant was that appointment order, issued vide order 25-9-90 (Annexure-E) is served to the applicant and it describes him "as the official concerned". He states that this proves that the applicant was in service on that date also. We were then inclined to allow this application in part to the extent that the applicant should be deemed to be in ad hoc service till 25-5-90 and that his service was terminated with effect from that date only. The parties were to be heard thereafter in this regard.

6. As none is present today, we dispose of this application on merits. It is clear from the offer of appointment (Annexure-D) that appointment of the applicant as Naib Patwari was purely in a temporary capacity and on adhoc basis for a period of one month. This letter is issued on 18-12-89. It is quite possible that this appointment was extended from time to time, though applicant has not produced any document in that effect.

7. Respondent's contention that his service were terminated on 17.1.90 vide Annexure-A order does not stand scrutiny. It was issued on 25-9-90 and copy was served on the applicant himself who is describe


as the official concerned. This will be appropriate and if the applicant was on duty that day.

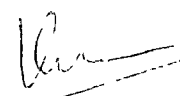
8. We are, therefore, inclined to give the benefit of ~~above~~^{doubt} to the applicant and ~~how~~^{it held} that the applicant did continue to work as Naib Patwari till 25.9.90.

Therefore, in our view annexure-A order should be deemed to have terminated his service from 25.9.90 only. In that case, the applicant is entitled to salary upto that date.

9. In the circumstances, we dispose of this application by declaring that the applicant's service should be deemed to be terminated from 25-9-90 only and, therefore, salary and allowances as Naib Patwari should be paid to him from 13.12.89 to 25-9-90, in case it is not already been paid.

10. Application is dispose of, as above. No costs.


(B.S. HEGDE)
MEMBER(J)


(N.V. KRISHNAN)
VICE CHAIRMAN(A)

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