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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

O.A. No.1665 OF 2004

New Delhi, this the <sup>18<sup>th</sup></sup> day of <sup>July</sup> ~~June~~, 2005

**HON'BLE SHRI M.K. MISRA, ADMINISTRATIVE MEMBER**

Smt. Kiran Tewari D/o Shri P.N. Tewari,  
G.D.S. Runner Machar House of Shri J.D. Sharma,  
H.No.764, Gyanlok Colony, Peerwali Gali Khurja,  
Distt. Bulandshahar (U.P.).

.....Applicant.

(By Advocate : Shri D.P. Sharma)

versus

1. Union of India  
through Secretary,  
Ministry of Communication and I.T.  
Department of Posts,  
Dak Bhawan, Sansad Marg,  
New Delhi-110001.

2. The Postmaster General  
Agra Region – Agra

3. The Superintendent Postoffices  
Bulandshahar Division,  
Bulandshahar (U.P.).

4. The Asstt. Superintendent Postoffice,  
Khurja Sub Division,  
Khurja (Bulandshahar).

.....Respondents.

(By Advocate : Shri R.V. Sinha)

**ORDER**

The applicant – Smt. Kiran Tiwari was appointed as E.D. Runner Machar against the vacant post, which had fallen vacant due to deputation of the permanent incumbent as G.D.S. Branch Postmaster. The appointment was provisional till regular appointment of the G.D.S. Branch Postmaster was to be made by the competent authority. There was a shortage of staff, the applicant was, therefore, attached for Stamp selling at Subhash Road Post office Khurja. On transfer of Asstt.

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Superintendent Post office, Khurja (Sub-Division Khurja), the new incumbent got relieved the applicant from Subhash Road Post office in an arbitrary manner without passing any order in respect of her posting as G.D.S. Runner, Machad. The applicant became jobless thereafter. She, therefore, seeks through this OA the following reliefs from this Tribunal:-

- “8.1 That the impugned Annexure-A-1 may kindly be quashed and the applicant be allowed to continue on her post as GDS Machar with all consequential benefits.
- 8.2 That the undisbursed pay and allowances for the month of November 2003 till 3<sup>rd</sup> December 2003 be ordered to be paid to the applicant.
- 8.3 That any other benefit or relief which in the circumstances of the case deemed fit and proper be allowed to the applicant.
- 8.4 That the cost of the suit be awarded to the applicant.”

2. Learned counsel for the applicant submitted that the order passed by the Asstt. Superintendent Post offices (Sub-Division Khurja) at Annexure A-1 is in the nature of directions issued in respect of terminating the applicant from post of Stamp Vender at Subhash Road, Khurja. Therefore, the order of the termination is vague and is not sustainable and is without basis. It was further submitted that this order is not in respect of terminating the services of the applicant originally appointed as G.D.S. Runner Machad. Therefore, in the absence of such order, she is entitled to continue there as G.D.S. Runner Machad. The appointment was made vide letter dated 14.8.2003 (Annexure A-2) in respect of the applicant on provisional basis as G.D.S. Runner Machad. However, the applicant worked as Stamp Vender at Subhash Road Postoffice w.e.f. 1.9.2003.

3. The learned counsel for respondents submitted that one Shri Shanti Swaroop, G.D.S. BPM, Machad under Thora SO, retired from service w.e.f. 4.3.2003. Therefore, the charge of G.D.S., BPM, Machad was transferred to Shri C.P. Singh,



G.D.S. Runner, Machad temporarily. As per the instructions of the postal directorate dated 21.10.2002, the substitute would be allowed only when the work load of the Branch Office is justified in an exceptional circumstances. The ASPO Khurja Shri S.R. Meena had violated such provisions and got appointed the applicant an outsider against the post of G.D.S. Runner Machad, which post was said not to be vacant against the regular incumbent, was put to look after the work of G.D.S. BPM Machad temporarily. Therefore, the appointment of the applicant was irregular and her services were terminated vide order dated 10.11.2003. The applicant never worked as G.D.S. Runner Machad. Even she worked without any proper authority as Stamp vender at Khurja. However, as per the directions of the Tribunal dated 15.7.2004 and 28.7.2004, the applicant has been allowed to continue on the previous job at Khurja. The vacancy at Machad is also not vacant. Since Shri C.P. Singh has joined back on 6.1.2004 at Machar, therefore, the appointment of the applicant stands terminated automatically. As such, no formal order of terminating her services was made in her case. It was further submitted by the learned counsel for the respondents that no approval was taken for appointing her as G.D.S. Machar by Shri Meena from the competent authority. Thus, the appointment itself is *ab initio* void. The payment of salary to the applicant for the month of November 2002 to 3<sup>rd</sup> December, 2003 has already been made as per the directions of this Tribunal issued on 21.10.2002.

4. The rejoinder has also been filed by the applicant reiterating the pleas raised in the Original Application.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. I observe that it is not a case of regularization of ad hoc or temporary services nor it is a case of re-appointment in the same job. I observe that it is a case

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where formal appointment letter was issued appointing the applicant as G.D.S. Runner Machad and the work of Stamp vender was taken by the respondents' department from her at Khurja. I also observe that the applicant was not communicated about termination of her services in writing and no formal order of termination of her services was issued by the respondents' department. Only directions were issued to terminate her services as Stamp vender. The direction regarding termination of her services as G.D.S. Runner Machad was not issued by the respondents' department. I also observe that Shri S.R. Meena, ASPO Khurja, was issued chargesheet and one of the allegations is about irregular appointment of the applicant. The disciplinary proceedings are going on against the ASPO Khurja, who appointed the applicant as G.D.S. Runner Machad, which has been alleged to be without approval of the competent authority. Therefore, it is not in the nature of regular appointment. Since no letter regarding termination of her services was issued by the respondents' department and the same was not communicated to her in writing although the appointment was made by passing a written appointment letter. The applicant is, therefore, entitled to work as G.D.S. Runner Machad as a temporary measure. The various cases cited by the learned counsel for the parties in favour of the applicant and against the applicant are not applicable in this case because those cases do not deal with the matter relating to non-issue of order of termination of services. The respondents are, therefore, directed to consider the case of the applicant in the light of the aforesaid discussions. It is well settled law that a temporary and an ad hoc employee has no right to claim regularization, particularly, when vacancy is not available. When the person is appointed on temporary basis and a formal appointment letter is issued, his/her services cannot be deemed to have been terminated automatically, unless the formal order of terminating his/her services is issued and communicated to that person. In the present case, no such

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order of termination of her services was made, therefore, she is entitled to work as G.D.S. Machad with all consequential benefits as per rules.

7. The upshot of the above discussions is that the OA is full of merits and hence, it is allowed without any order as to costs.



(M.K. MISRA)  
**ADMINISTRATIVE MEMBER**

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