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**Central Administrative Tribunal  
Principal Bench**

**OA No.1872/2004**

New Delhi this the 18<sup>th</sup> day of May, 2006.

**Hon'ble Mr. Shanker Raju, Member (J)**

Krishna Kumar Sharma,  
S/o Shri J.D. Sharma,  
H.No.764 Gyanlok Colony,  
Khurja-Bulandhsahar.

-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.
2. The Postmaster General,  
Agra Region, Agra.
3. The Superintendent of Postoffices,  
Buland Shahar Division,  
Buland Shahar.
4. The Asstt. Supdt. Postoffice,  
Khurja Sub Division,  
Khurja Buland Shahar.

-Respondents.

(By Advocate Shri S.M. Arif)

**ORDER (ORAL)**

Oral termination of services as Gramin Dak Sevak Mail Carrier (GDSMC, for short), Noor Mohd. Pur has been assailed seeking direction for re-instatement with all consequential benefits.

2. Applicant was engaged as GDSMC, Noor Mohd. Pur on 1.2.2003 and was provisionally appointed as GDSMC on completion

of formalities by ASPO. Respondent No.4, who was an Inspector and officiating as ASPO dispensed with the services of applicant orally without joining of the regular incumbent. The representation preferred was not responded.

3. Applicant, later on, was ordered to work as GDSDA at Meerpur on 2.12.2003 but his services were dispensed with on 8.3.2004.

4. Shri D.P. Sharma, learned counsel appearing for applicant, at the outset states that it is not disputed that applicant being appointed on provisional basis as GDSMC by ASPO, his oral dispensation of service by an Inspector who is only officiating without any administrative or statutory power attached to the post is without jurisdiction. A reliance has been placed on a decision of a coordinate Bench of this Tribunal in OA-2361/2004 in **Radhey Shyam v. Union of India & Ors.**, decided on 15.09.2005, where a similar view taken resulted in quashing of the orders and re-instatement with liberty.

5. In the above backdrop it is stated by the learned counsel of applicant that the issue in the present case, on all fours, is covered by the ratio of the decision in **Radhey Shyam** (supra).

6. On the other hand, Shri S.M. Arif, learned counsel appearing for respondents, vehemently opposed the contentions. However, it is not disputed that respondent No.4 verbally dispensed with the services of applicant on 20.11.2003, while officiating as ASPO being permanent incumbent of the post of Inspector.

7. In the light of the above, leaving other legal grounds open, on considering the rival contentions of the parties, the following observations have been made by the coordinate Bench in *Radhey Shyam* (supra):

“4. I have heard both the learned counsel for the parties and perused the pleadings. It is not disputed that applicant has been appointed by ASPO. He was terminated vide communication dated 31.10.2003 by a person holding lower rank i.e. Sub Divisional Inspector. It is a well-settled law that if a person has been appointed by a higher authority, he cannot be terminated by a person who is lower in rank to that of who had appointed him. The further contention raised by the respondents was that the applicant was appointed vide communication, which is bogus document i.e., 02.09.2003. I have given my thoughtful consideration to this aspect and am of the opinion that the said contention does not hold the field particularly when the applicant was appointed by ASPO but was terminated by an authority, who is lower in rank i.e. Sub-Divisional Inspector, Debai. Such being the case, in no circumstance, respondents' action in terminating the applicant vide termination order dated 31.10.2003, which takes effect from 03.11.2003 could be sustained in the eyes of law and accordingly deserved to be quashed. Accordingly, the same is quashed and set aside. It goes without saying that respondents would be at liberty to take further steps as available to them under law and rules on the subject. Accordingly, OA is allowed.”

8. In this regard dispensation of applicant's services verbally by Inspector, though officiating as ASPO, is not in accordance with Rules. The above ratio squarely covers the case of applicant as well.

9. In the result, for the foregoing reasons, OA is partly allowed. Oral termination of applicant's services dated 20.11.2003 is set aside. Respondents are directed to accord consequential benefits to

applicant. However, they are at liberty, if so advised, to take further steps in accordance with law. No costs.

*S. Raju*  
(Shanker Raju)  
Member (J)

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