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(Court No. III) Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.
....

Original Application No. 1052 of 1997
this the 5th day of February 2002.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)
HON'BLE MR. C.S. CHADHA, MEMBER (A)

1. Harish Chandra Sharma, S/o Sri Jai Dutta Sharma, R/o Village Malli Bamori, P.O. Haldwani, District Nainital.
2. Bhawani Ram, S/o Sri Bulab Ram, R/o Village Titagarh Dilipsingh (Chandmari), P.O. Kathgodam, District Nainital.

Applicants.

By Advocate : Sri M.K. Upadhyaya.

Versus.

1. Union of India through the Secretary (posts), Ministry of Communication, Dak Bhawan, New Delhi.
2. postmaster General, Bareilly Region, Bareilly.
3. Senior Supdt. of post Offices, Nainital Division, Nainital.
4. postmaster, Haldwani H.O., District Nainital.

Respondents.

By Advocate : Sri S.C. Tripathi.

O R D E R (ORAL)

RAFIQ UDDIN, MEMBER (J)

The applicants seek quashing of the order dated 1.10.97 (Annexure A-1 to the O.A.) and also directions to be issued to the respondents either allow the applicants to continue to hold the post of E.D. Chowkidar ^{or in} ~~or~~ ^{ance R} complying with the directions of the D.G. posts ^{R to provide} by giving alternate appointment in any E.D. post or converting ^R to the said post in C.P. Chowkidar and also direction to the respondents not to disturb the services of the applicants on the post of E.D. Chowkidar.

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2. It appears from the record that the applicant no.1- Harish Chandra Sharma was appointed as E.D. Chowkidar w.e.f. 27.7.76, while the applicant no.2-Bhawani Ram was appointed w.e.f. 10.2.79 on the said post of E.D. Chowkidar at Haldwani post office. However, the posts of E.D. Chowkidar were abolished in terms of the letter dated 1.11.1996 issued by the PMG, Bareilly Region, Bareilly (respondent no.2). The applicants have challenged the validity of the impugned order mainly on the ground that although two posts of E.D. Chowkidar at Haldwani post office ^{were} ~~was~~ ordered to be abolished, but the respondent no.2 has failed to give the alternative employment to the applicants on any E.D. posts or to convert the said post of E.D. Chowkidar to the post of C.P. Chowkidar in terms of the instructions contained in the letter dated 30.1.90.

3. We have heard the learned counsel for the parties and have perused the pleadings on record.

4. In order to appreciate the case of the applicants, it is necessary to re-produce the contents of the letter dated 30.1.90, which is as under:-

"It has been brought into the notice of the Chief Post Master General, U.P. that certain posts of EDAs have been treated at dying cadre. The staff attached to these posts have been retrenched consequent upon abolition of such posts of EDAs in various postal Divisions of the Circle.

The staff attached to the posts which are to be abolished as per RCR Savor's Committee Report are not to be retrenched as per instructions issued on the subject from time to time. Such staff may be allowed to continue by converting these posts into contingency paid cadre. No such staff should be left without job.

It is, therefore, again reiterated that ED staff working on ED posts not prescribed by Savor Committee should not be retrenched in any case, rather such posts may be converted into C.P. Cadre one the staff attached to these posts may be allowed to work on such converted C.P. posts. The Divisional Heads are requested to examine all such cases immediately in their Divisions and these instructions should be followed without exception. Any disregard to these instructions will be viewed seriously by the Chief PMG.

The receipt of this letter may kindly be acknowledged by return of posts."

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5. It is evident from the perusal of the aforesaid letter that it was necessary on the part of the respondents to provide the alternate employment to the applicants or to convert the post of E.D. Chowkidar to the post of C.P. Chowkidar. The learned counsel for the respondents has not disputed the provisions contained in the aforesaid letter, but has urged that various letters have been written by the respondent no.2 to the competent authority namely D.G. (Posts), New Delhi for converting the posts, in question, into the post of C.P. Chowkidar, but no response has been received, hence they are not in a position to provide alternate employment or to convert the posts, in question.

6. The learned counsel for the applicants have, however, brought to our notice the action taken by the PMG, Bareilly Region, Bareilly (respondent no.2) regarding the post of E.D. Chowkidar by converting the said posts into the post of C.P. Chowkidar in respect of District Almora vide letter dated 17.6.92, a copy of which has been annexed with the M.A. We find from the contents of the aforesaid letter that the PMG, Bareilly had directed the SSP, Almora Division to convert the post of E.D. Chowkidar into the post of C.P. Chowkidar in compliance of the order dated 30.1.90, referred to above. It is further pointed-out that the SSP had also complied with the aforesaid instructions and converted 13 posts of E.D. Chowkidar into the post of C.P. Chowkidar. We are, therefore, unable to appreciate the arguments advanced by the learned counsel for the respondents on this point as to why the respondent no.2 is not the competent authority to convert the said post of E.D. Chowkidar into the post of C.P. Chowkidar. It is obvious that the necessary correspondence has been made by the respondent no.2 to the D.G.(Posts), New Delhi, which has been relied-upon by the respondents on the matter in issue. Since the respondents had passed an order which ^{was} ~~is~~ favourable to the applicants, they are bound to follow the same principle in the case of

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applicants also. We

7. For the reasons stated above, we allow this O.A. and quash the impugned order dated 1.10.97. The respondents are directed to pass necessary orders in terms of the letter dated 30.1.90, referred to above, regarding the conversion ^{of} the posts of E.D. Chowkidar into the post of C.P. Chowkidar within a period of three months from the date of receipt of copy of this order. No costs.

G. G. G. G.
MEMBER (A)

Rajendra Kumar
MEMBER (J)

GIRISH/-