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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 538 of 1997

Allahabad this the 08th day of July, 2003

Hon'ble Maj Gen K.K. Srivastava, Member(A)
Hon'ble Mr. A.K. Bhatnagar, Member (J)

VIMAL KUMAR SINGH, aged about 31 years,
S/o Late Sri Rammurti Singh, R/o Village : Deoria
Ganga, Post T.N. Deoria, Tehsil : Khalilabad,
District Basti, employed as EOBPM T.N. Deoria
in the District Basti.

Applicant

By Advocates Shri M.K. Upadhyay
Shri J.M. Sinha,
Shri B. Ram

Versus

1. Union of India through the Secretary, Ministry of Communication, (Department of Posts), Dak Bhawan, New Delhi-110001.
2. Chief Post Master General, U.P. Circle, Lucknow-226001.
3. Post Master General, Gorakhpur Region, Gorakhpur-273008.
4. Supdt. Post Offices, Basti Division, Basti-272001.

Respondents

By Advocate Shri S.C. Tripathi

O R D E R (Oral)

By Hon'ble Maj Gen K.K. Srivastava, Member (A)

In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 29/04/97 issued by the Office of Chief Post Master General, Lucknow addressed to Post Master General, Gorakhpur

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Region Gorakhpur. The applicant has prayed for quashing the same with direction to the respondents not to disturb the applicant in his working.

2. The facts in short are that the father of the applicant was working as Extra Departmental Branch Post Master, Tameshwar Nath, Deoria. Father of the applicant died in harness on 22.07.1996 leaving behind his wife and three sons. The case of the applicant for compassionate appointment was taken up and on the recommendation of the Circle Committee report, approval of Chief Post Master General vide letter dated 24.06.1994(annexure-10) was conveyed to Superintendent, Post Office, Basti. In pursuance to the approval of Chief Post Master General, Superintendent, Post Office, Basti issued appointment memo dated 17.08.1994 appointing the applicant as E.D.B.P.M., Tameshwar Nath, Deoria. The applicant joined as E.D.B.P.M. on 26.08.94. The services of the applicant have been terminated vide order dated 29.04.97. However, applicant continues to work as E.D.B.P.M. because of the interim order dated 16.05.97.

3. Heard, Shri M.K. Upadhyay, learned counsel for the applicant and Shri S.K. Pandey brief holder to Shri S.C. Tripathi, counsel for the respondentsⁱⁿ and^h perused the record.

4. The grievance of the applicant is that his appointment has been made on compassionate grounds and^h after the approval of Chief Post Master General, Lucknow, which was conveyed to Superintendent, Post

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Offices, Basti on the basis of recommendation of Circle Committee. The applicant worked for about 3 years and without giving any show-cause notice, an order for cancelling his appointment^{has been} issued. This act of the respondents is highly arbitrary and violative of principle of natural justice. Learned counsel for the applicant further submitted that there has been no complaint whatsoever against the working of the applicant and the respondents have no reason to cancel his appointment.

5. The respondents counsel on the other hand submitted that the family of the applicant is not in indigent condition. One of the brothers^h of the applicant is a practicing Advocate besides there was a case of embezzlement of Rs.17,000/- against the father of the applicant, as has been stated in para-17 of the counter-reply. Learned counsel for the respondents also submitted that the applicant has not availed the departmental remedy available to him and he has approached the Tribunal straight away. Therefore, the O.A. is not maintainable under Section 20 of the Administrative Tribunals Act, 1985.

6. After~~Having~~ heard the counsel for the parties and considered their submissions, we find that a very short controversy in this case is involved. It is admitted fact that the applicant^h ~~so~~^{was} appointed on compassionate ground vide order dated 17.08.1994 after the approval of Chief Post Master General. The applicant has worked for about 3 years. Cancelling the appointment without giving any show-cause notice to the applicant is not sustainable in the eye of law. In case something

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was noticed or found after the appointment against the work and conduct of the applicant, it was expedient on the part of the respondents to have taken action as per law. In the present case, we find that the rules have been flouted and the respondents have issued the impugned order in utter disregard to the rules on the subject. The respondents have certainly violated the principle of natural justice.

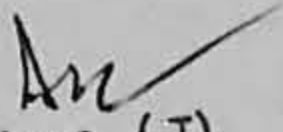
7. We would further like to observe that ^{for} misappropriation to the tune of Rs.17,000/- by the father of the applicant, ^{he} cannot be held the applicant responsible and the respondents cannot take this ground while passing the impugned order, cancelling the appointment of the applicant. The arguments of the respondents that the appointment was temporary also does not hold good. The legal position is well settled that even a temporary employee has got legal rights and he has to be given an opportunity to explain his side of the case. Needless to mention that the grounds put forth by the respondents justifying their action had to be verified before the initial appointment was granted. The respondents after a lapse of more than 2 years cannot take the ground for cancelling the appointment of the applicant on compassionate grounds.

8. In the facts and circumstances, the O.A. is allowed. The impugned order dated 29/04/97 and also the order dated 27/05/97 issued in pursuance of the order of Chief Post Master General dt.29/04/97, are quashed. The applicant shall be allowed to

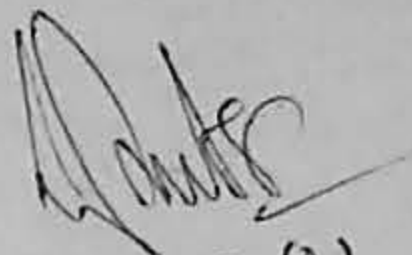
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continue on the post he ^{high} ~~is~~ already working. The
interim order dated 16/05/97 ^{islands} ~~is~~ merged with this
order. No cost.


Member (J)

/M.M./


Member (A)