

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

Original Application No. 1111 of 1998

this the 15th day of January 2004.

HON'BLE MR. V.K. MAJOTRA, V.C.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Shrikant Vishwakarma, S/o Sri Ram Dhan, R/o Village &
post Pakarhat, District Sonbhadra (U.P.)

Applicant.

By Advocate : Sri A. Tripathi.

Versus.

1. Union of India through the Secretary (Posts), Department of posts, India, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Supdt. of post Offices, Mirzapur Division, Mirzapur.
3. Sub-Divisional Inspector (Postal), Robertsganj Sub-Division, Sonbhadra (U.P.)
4. Sri J.N. Singh, Supdt. of post Offices, Mirzapur Division Mirzapur.
5. Gopi Prasad, R/o Village & post Pakarahat, District Sonbhadra (U.P.)

Respondents.

By Advocate : Sri P. Mathur.

ORDER

PER V.K. MAJOTRA, V.C.

Applicant has challenged Annexure A-1 dated 3.10.1998 whereby respondent no.5 - Gopi Prasad has been reinstated on the post of Extra Departmental Runner, Pakarhat (Ramgarh), District Sonbhadra, which post was held by the applicant till then.

2. The learned counsel of the applicant contended that the applicant was appointed on the said post vide Annexure A-2 dated 17.3.1982 on a regular basis ^{against a clean vacancy}. He continued to

function as such for 16 years whereafter all of sudden and without putting the applicant on notice, his services have been terminated, though formal order of termination of his services has not been issued. The learned counsel further stated that respondents have wrongly treated the applicant as a substitute of Shri Gopi Prasad as his services had already been terminated as is apparent from the appointment letter of the applicant.

3. On the other hand, the learned counsel for the respondents contended that the applicant had been provisionally appointed as Substitute in place of Sri Gopi Prasad and when Sri Gopi Prasad was acquitted in the criminal case against him, applicant had to vacate the said post, even though he had been working thereon for a long period of 16 years. The respondents have also not rebutted the contention of the applicant that no show-cause notice was served upon him.

4. We have considered the rival contentions carefully. Annexure A-2 dated 17.03.1982 establishes that the applicant was provisionally appointed "against Sri Gopi Prasad, whose services were terminated." This letter does not indicate that the applicant was appointed as Substitute for Sri Gopi Prasad. This letter indicates that the services of Sri Gopi Prasad had been terminated and on vacancy created on termination of services of Sri Gopi Prasad, applicant was "provisionally appointed". Although the expression 'provisionally' has been pre-fixed to the word 'appointed', applicant continued to work for a long period of 16 years on the post. In the absence of any condition that the applicant was a substitute and would have to vacate the post on return of Sri Gopi Prasad, Annexure A-2 could not have been issued without putting the applicant on notice. xxxxxxxx

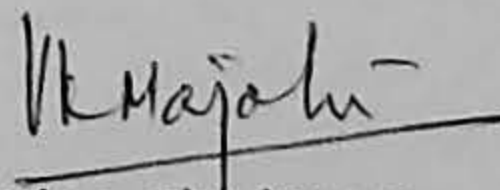
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Annexure A-2 also does not specify that the applicant was appointed on adhoc/temporary basis and his services could be terminated with or without any notice. D.G., P & T letter dated 23.2.1979 lays down that "Efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge they had put in not less than three years' service. In such cases their names should be included in the waiting of ED Agents discharged from service." The applicant has put in more than five times the service required in the respondents to provide alternative appointment.

5. In the facts and circumstances of the case as discussed above, we are of the considered view that the respondents have committed gross irregularity and illegality in terminating the services of the applicant without taking into consideration the nature of the appointment of the applicant, without putting him on notice and removing him from service after a long period of 16 years. Annexure A-1 dated 3.10.1998 is quashed and set-aside and the respondents are directed to reinstate the applicant with consequential benefits w.e.f. 3.10.1998. As regards Sri Gopi Prasad - respondent no.5, respondents may accommodate him in any nearby vacant post.

6. The O.A. is allowed in the above terms, however, without ⁱⁿ ~~without~~ any costs.


Member (J)


Vice Chairman
15.01.04.

GIRISH/-