

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.188/2001

THURSDAY, THIS THE 2ND DAY OF MAY, 2002

HON'BLE MR. C.S. CHADHA .. MEMBER (A)
HON'BLE MR. A.K. BHATNAGAR .. MEMBER (J)

Anil Kumar Saini,
S/o late Sri K.C. Saini,
R/o House No.144/B Gayatri Nagar,
Line Par, Muradabad. ... Applicant

(By Advocate Shri O.P. Gupta)

Versus

1. Head Record Officer,
Bareilly Division,
Bareilly - 243 001.
2. Superintendent,
Railway Mail Service (S.R.M.),
Bareilly Division, Bareilly.
3. Union of India, through
Secretary,
Ministry of Communication,
Govt. of India,
New Delhi. ... Respondents

(By Advocate Shri N.C. Nishad)

ORDER

Hon'ble Mr. C.S. Chadha, Member (A):

The case of the applicant is that he was appointed on compassionate grounds vide Annexure-2, dated 4.1.2001. However, without giving any show cause notice or mentioning any reason on the basis of a direction received from a higher authority, his services were terminated with effect from 8.2.2001, vide Annexure-3.

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2. In their counter affidavit, the respondents have mentioned that vide Annexure-9, the authority issuing the removal order was informed that the appointment of the applicant was incorrect and that he was No.28 on the list of compassionate appointments and others senior to him were still awaiting their appointment.


3. It is a well accepted principle of law that if any Government authority acting in the normal course of duties grants any benefits under some mis-conception, it cannot be withdrawn because the citizen should not suffer for something he has got in good faith. Further, the learned counsel for the applicant has brought to our notice the ruling of the Hon'ble Allahabad High Court 2000(1)E.S.C. 291 in AJAI KUMAR SHARMA Vs. STATE OF U.P., wherein the Hon'ble High Court held that an official appointed on compassionate grounds under dying in harness rules, cannot be considered to be temporary or adhoc and passing of termination orders against such an employee is illegal and unjustified and violative of principles of natural justice. Relying on this judgment of the Hon'ble High Court, we feel that a compassionate appointment given in the compassionate appointment quota cannot be withdrawn for any rhyme or reason. Even if there are others senior to him, they may be adjusted in due course. But, an appointment given legally cannot be withdrawn in this manner. We therefore, quash the impugned order.

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4. Since the applicant is already continuing in service as a result of the interim order passed on 22.2.2001, he shall continue to work in the said post and shall receive all benefits as if the order terminating his services was never passed. We are informed that despite the interim order, he has been removed and reinstated only because of a contempt petition. There was a break of about 2 months. In the contempt petition it had been decided that the result of the consequence of the break in service will be decided on the final outcome of the O.A. Since, we have quashed the impugned order, the period for which the applicant was not on service he may be treated on duty and he shall also be paid wages for the said period. No order as to costs.


MEMBER (J)


MEMBER (A)

psp.