

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 24rd day of AUGUST 2006.

Original Application No. 271 of 2001

Hon'ble Mr. Justice Khem Karan, Vice-Chairman
Hon'ble Mr. P.K. Chatterji, Member-A

Kulbul Singh, S/o late Shamsheer Bahadur Singh,
R/o Vill - Mujehera Kalan,
Post Office- Mujehara (Chilh)
MIRZAPUR.

. . . . Applicant

By Adv: Sri V.N. Srivastava

V E R S U S

1. Union of India,
through Chief Post Master General, UP
LUCKNOW.
2. Post Master General,
ALLAHABAD.
3. Assistant Superintendent, Post Offices,
Western Sub Division,
MIRZAPUR.

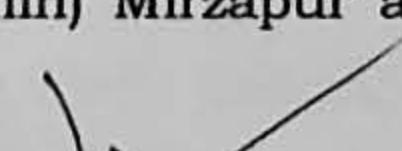
. . . . Respondents

By Adv: Sri S. Singh

ORDER

By Hon'ble Mr. Justice Khem Karan, VC

The applicant is challenging the legality and propriety of the order dated 19.02.2001 (Annexure A5), by which his services as EDR were terminated. He has also prayed for issuing a mandamus commanding the respondents to treat him in service as EDR Mujehara (Chilh) Mirzapur and to pay his salary regularly.



2. It transpires from perusal of appointment letter dated 01.10.1997 (Annexure 2) that Assistant Superintendent of Post Offices, West Sub Division, Mirzapur, appointed the applicant on the post of EDR as dependent of late Shamsheer Bhadur Singh, who died in harness on 11.10.1996. The appointment was provisional one subject to the approval of the CPMG, Lucknow. He joined and started working as EDR Mujehara (Chilh) Mirzapur. It was by the impugned order dated 19.02.2001 (Annexure 5) that his services were terminated. He has challenged this termination order on the ground inter alia that his appointment being on compassionate grounds was regular one and could not have been terminated in this way without giving him a show cause notice or without giving him opportunity of hearing.

3. It also transpires that on the basis of an interim order dated 21.03.2000 granted by this Tribunal during the course of these proceedings, the applicant continued working as such till he was again appointed vide order dated 26.03.2001 on compassionate grounds. The respondents have tried to say that since earlier appointment order dated 01.10.1997 was without following the due procedure and was purely provisional one, so was rightly terminated by the order impugned in this OA.

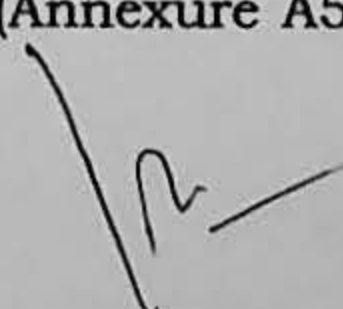
4. Sri S. Singh, has also tried to say that according to the existing Govt. orders such request for compassionate appointment are screened by the Circle Relaxation Committee (CRC) on the parameters laid down in the Govt. orders and it is



only after the recommendation of such CRC that regular appointment on compassionate grounds is possible and since order dated 01.10.1997 was not passed after going through such procedure it was termed as provisional. He says that after the fresh order dated 26.03.2001 giving appointment on compassionate grounds, the OA has become infructuous and deserves to be dismissed.

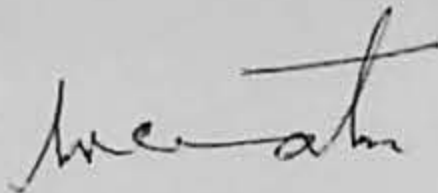
5. Sri Srivastava has contended that there can be no dispute that the appointment ordered on 01.10.1997 was on compassionate grounds. He says that even if the same was offered without following any the procedure, the same could not have been set at naught in this way, after a period of three or four years, that too without giving a show cause notice or without giving an opportunity of hearing. Learned counsel argues that subsequent order dated 26.03.2001 appointing the applicant again on compassionate grounds will not cure the legal defect crept in order dated 19.02.2001 by which the services of the applicant were dispensed with, without giving him any show cause notice. Learned counsel has also submitted that in case the earlier appointment goes out of record for purposes of benefits, the applicant is bound to suffer ultimately as he may not be able to count those services for purpose of pension and other benefits.

6. After having considered the respective submissions, we are of the view that this OA deserves to be allowed. The impugned order dated 19.02.2001 (Annexure A5) by which the

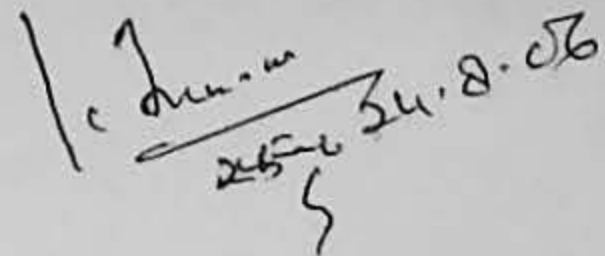


services of the applicant have been dispensed with, is bad for the reasons that it has been passed without giving the applicant any show cause notice or without giving him an opportunity of hearing. A perusal of the letter dated 01.10.1997 makes it clear that it was a compassionate appointment and once it was a compassionate appointment it was a regular one and could not have been dispensed with without affording an opportunity of hearing to the applicant. So it deserves to be quashed on this ground alone. Subsequent appointment order dated 26.03.2001 will not come of illegal rescue to the order dated 19.02.2001.

7. In view of the above, this OA is allowed and the impugned order dated 19.02.2001 (Annexure A5) is quashed with all consequential benefits. Subsequent appointment orders dated 26.03.2001 will be treated as non-existent, after earlier order dated 19.02.2001 stands quashed. No order as to costs.



Member (A)



Vice-Chairman

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