

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

Allahabad : Dated this 22nd day of May, 2001.

Original Application No.621 of 2001.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

Mohd. Ebrahim, S/o Late Shri Mohd. Amin,  
Resident of Village-Banawa, Post Bisaham  
(Mohammadpur) District Azamgarh.

(Sri H.N. Tripathi/Sri AN Mishra, Advocates)

. . . . . Applicant

Versus

1. Union of India through Secretary Ministry of Telecommunication/Bharat Sanchar Nigam Ltd. Government of India, Sanchar Bhawan, New Delhi.
2. Post Master General U.P., Lucknow.
3. Senior Superintendent of Post Offices, Azamgarh Region, Azamgarh.
4. Sub Divisional Inspector Post Office Sub Division Lalganj, District Azamgarh.  
(Sri R.C. Joshi, Advocate)

. . . . . Respondents

ORDER (O\_r\_a\_1)


By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this OA the applicant has challenged the order dated 01-5-2001 by which his appointment as E.D.D.A. in the Post Office Bisaham, district Azamgarh has been cancelled.


2. The facts in short giving rise to this application are that the applicant's father Late Mohd. Amin was serving as E.D.D.A. in Post Office Bisaham (Mohammadpur) district


Azamgarh. He died during service period on 16-10-1997. The applicant and his mother claimed appointment on compassionate ground. The case of the applicant was accepted and he was appointed vide order dated 01-5-1998. Since then the applicant was serving on the post. However, by the impugned order dated 01-5-2001, the appointment of the applicant has been cancelled for the reasons stated in the order.

3. Learned counsel for the applicant has submitted that the order has been passed against the applicant without affording him reasonable opportunity of hearing and the order is illegal and void having been passed in violation of the principles of natural justice. The reliance has been placed in a Division Bench judgement in case of Vishwamitra Yadava Vs. U.P. State Public Service Tribunal, Lucknow & Ors, 1 (1998) 1 UPLBEC 23. In paragraph no.6 of the aforesaid judgement it has been said the cancelling the order of appointment is different from the order terminating services of temporary Govt. servants or reverting such an employee to the lower post. In case of termination of service from higher post the appointment or promotion is not cancelled. The only effect of such an order is the right of an employee for continuance on the post to which he was appointed/promoted, comes to an end. But if the order of appointment/promotion is cancelled, it causes adverse effect on the employee concerned and in such cases the authority is under obligation to give opportunity of hearing before passing the order. In our opinion the aforesaid judgement is squarely applicable in the present case. The legal position stated therein is well settled by various judgements of the Hon'ble Supreme Court and this Tribunal. The impugned order, therefore, cannot be sustained.



4. For the reasons stated above, this OA is allowed at the admission stage. The impugned order dated 01-5-2001 (Annexure-A-3 to the OA) is quashed. The applicant shall be entitled to continue on the post and shall be paid salary. However, it shall be open to the respondents to pass fresh order in accordance with law after giving an opportunity of hearing. There shall be no order as to costs.

  
Member (A)

  
Vice Chairman

Dube/