

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 07th day of October, 2002.

Original Application No. 1244 of 2001.

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.

Hon'ble Mrs. Meera Chhibber, Member- J.

Awdhesh Kumar S/o Late Bhajan Lal
R/o Vill. and Post - Sawai Raghunathpur, Khair,
Distt. Aligarh.

.....Applicant

Counsel for the applicant :- Sri A. Tripathi

V E R S U S

1. Union of India through the Secretary, D/o Post,
M/o Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, U.P. Circle,
Lucknow.
3. Senior Superintendent of Post Offices,
Aligarh Division, Aligarh.
4. Sub Divisional Inspector of Post Offices,
West Division, Aligarh.

.....Respondents.

Counsel for the respondents :- Sri R.C. Joshi

O R D E R

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

In this O.A under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 4.10.2001 of respondent No. 4 terminating the service of the applicant. The applicant has also prayed that the order dated 04.10.2001 issued in pursuance of the cancellation order dated 24.09.2001 be quashed and the respondents be directed to allow the applicant to continue on his group 'D' post in Khair Sub Division, Aligarh with all consequential benefits.

that the father of the applicant died in harness on 06.09.1995 while he was working as Postman at Aligarh Head Post Office. The mother of the applicant filed an application before the respondents requesting for appointment on compassionate grounds. After following procedure and proper verification of the documents submitted by the applicant, the case of the applicant was favourably decided by the Circle Selection Committee. The approval of the Chief Post Master General, U.P. Circle, Lucknow for appointment of the applicant as Group 'D' in Aligarh Division was conveyed to Post Master General, Agra vide letter dated 18.08.1997 (annexure A- 4). In pursuance of the order of C.P.M.G , the respondent No. 3 issued the order dated 30.06.1999 (annexure A-5) allotting the applicant to West Sub-Division, Khair. The respondent No. 4 issued the appointment letter and the applicant was appointed as Group 'D' in Khair Sub-Division vide order dated 02.05.2000 of respondent No. 4. The services of the applicant have been terminated by the impugned order dated 04.10.2001 passed by the respondent No. 4 (annexure A-1). Hence, this O.A which has been contested by the respondents by filing counter reply.

3. Sri A. Tripathi, learned counsel for the applicant submitted that the applicant was appointed on compassionate grounds only after/sanction from the C.P.M.G, U.P. Circle, Lucknow was received and, therefore, Post Master General, Agra ^{being an Authority junior to CPMG} ~~has~~ no powers to review the appointment of the applicant which was against a clear vacancy and was also in the nature of regular appointment. The learned counsel for the applicant also assailed the action of the respondents on the ground that no show cause notice was served on the applicant nor was any opportunity given to him to defend his case in contravention of principles of natural justice.

4. The learned counsel for the applicant has also invited our attention to Paras 5, 13, 14, 27, 28 and 29 of counter affidavit and submitted that perusal of these paras established without doubt that the applicant's appointment was approved by the C.P.M.G, U.P. Circle, Lucknow, the appointment was reviewed by the Post Master General, Agra, an authority junior to the approving authority, no show cause notice was given and also that the appointment of the applicant has been terminated in compliance to the order of P.M.G, Agra dated 21.09.2001.

5. Learned counsel for the respondents contesting the claim of the applicant submitted that the appointment of the applicant was provisional. His appointment was purly temporary and on adhoc basis as is clear from the appointment order dated 02.05.2000 (annexure A- 6). Since the applicant was provisionaly appointed on adhoc basis, no illegality has been committed by the respondents in terminating the services of the applicant by an order simpliciter. The learned counsel has further submitted that the appointment of the applicant was irregularily made by the respondent No. 4 and, therefore, the applicant has no right to claim any relief.

6. We have considered the submission of counsel for the parties and perused the records.

7. Admittedly, the applicant was appointed on compassionate grounds only after his case was duly approved by the Chief Post Master General, U.P. Circle, Lucknow on a vacant post meaning thereby that it was a regular appointment. We find substance in the submission of the learned counsel for the applicant that P.M.G, Agra has no competence to review the applicant's case which was approved by a higher authority. We would like to observe

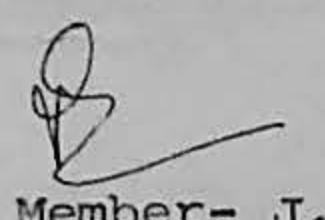
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that any appointment made on compassionate grounds is always in the nature of regular appointment and such appointments are not to be treated as adhoc or provisional. Even, otherwise, the services of the applicant could not have been terminated without show cause. The impugned order of respondent No. 4 dated 04.10.2001 and also the order of P.M.G, Agra dated 24.09.2001 suffer from the error of law and are liable to be quashed.

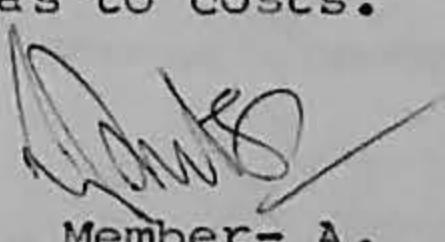
At the end, the learned counsel for the respondents invited our attention to annexure A- 8 to the O.A. We have also perused the annexure A- 8 which is letter of respondent No. 3 dated 30.05.2001 by which the applicant has been asked to give his willingness to work in other department. We are unable to understand as to why this letter was issued to the applicant specially when the applicant was already employed in the respondents establishment.

8. In the facts and circumstances of the case and our aforesaid observations, the O.A is allowed. The order of respondent No.4 dated 04.10.2001 is quashed. We also quashed the order of Post Master General, Agra dated 24.09.2001 as we hold that he could not have given direction to S.S.P.Os to terminate the services of the applicant without giving show cause notice. The respondents are directed to reinstate the applicant within two weeks from the date of communication of this order. Since the action of the respondents is illegal, the applicant is entitled for back wages. We, therefore, direct the respondents to pay 50% back wages to the applicant for the period he has not been able to work in the respondents establishment ^{in given} ^{for against the principle of natural justice.} ^{No} ^{fault of his}.

9. There will be no order as to costs.



Member- J.



Member- A.

/Anand/