

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 770 OF 2004

ALLAHABAD THIS THE 29th DAY OF JULY, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J
HON'BLE MR. D. R. TIWARI, MEMBER-A

Winay Kumar Srivastava,
aged about 34 years,
Son of Late Chandra Prasad Srivastava,
resident of Village and P.O. Khevusipur,
District-Jaunpur.Applicant

(By Advocate Sri R.K. Srivastava)

Versus

1. Union of India,
through the Secretary,
Ministry of Communication, Department of Posts
New Delhi.
2. The Superintendent of Post Officer,
Jaunpur Division Jaunpur.
3. UP-Mandaliya Nirikshak (Post) Kerakat,
Jaunpur.Respondents

(By Advocate Sri S. Singh)

ORDER

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

By this O.A. applicant has sought quashing of the
order dated 2.7.2004 with a direction to respondents ^{to} pay
damages as consequential reliefs to any amount equivalent
to allowances attached to the post of E.D.D.A. w.e.f.



till the date the applicant again resumes his charge.

2. It is submitted by the applicant that the post of E.D.D.A. in village Haripur fell vacant due to suspension of Sri Sugreev Ram in the year 2003 against which applicant was appointed as E.D.D.A. in Haripur 23.04.2003. He has been working continuously on the said post to the full satisfaction of his superiors. ~~There~~ has not been any complaint either from public or from the department against the applicant. He had earlier also worked in this department on the same post as per the need of department. He moved an application on 24.05.2003 to the Superintendent of Post Offices, District- Jaunpur requesting that he should be confirmed on the said post. The Sub- Divisional Inspector (Post) issued an order on 06.06.2003 stating therein that applicant shall not be removed from service till the suspended Shri Sugreev Ram comes and takes over the charge (Annexure A-3).

3. Grievance of the applicant in this case is that inspite of this order he has been removed from service ^{order of} vide dated 02.07.2004 without giving him any show cause notice or following any process of law, therefore, the said order is absolutely wrong, illegal and bad in law.

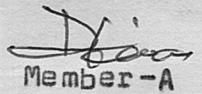
4. Counsel for the respondents on the other hand submitted that applicant does not have any right to continue on the post as he was never regularly appointed to the post and has not been replaced by another substitute but regular hand has been asked to look after the charge of this post as



well, therefore, there is no illegality in the order passed by the respondents.

5. We have heard counsel for the parties and perused the pleadings as well.

6. Applicant has not annexed any appointment letter with this petition which can show that he was appointed by following a regular method. Admittedly as per applicant's own case, he was appointed as E.D.D.A. since the post had fallen vacant due to suspension of one Shri Sugreev Ram who was working as E.D.D.A. It goes without saying that when a person is suspended, he still holds lien on the post and it cannot be said that the post had fallen vacant. At best applicant would have been engaged as an extra hand as a substitute. The law is well settled that a substitute has no right to continue on the post indefinitely. He can have a valid grievance only if he is replaced by another substitute. Perusal of the order dated 2.7.2004 shows that a regular person has been asked to look after the post of E.D.D.A. as well, meaning thereby that they have been given additional charge to look after the post of E.D.D.A. as well. In the process, if applicant has been asked to hand over the charge, we do not find any illegality in the orders passed by the respondents. Simply because applicant was engaged as a substitute, he has no right to challenge the order dated 02.07.2004. Accordingly, this O.A. is found to be devoid of merit, the same is accordingly dismissed at the admission stage itself with no order as to costs.


Member-A


Member-J