

Open Court

**Central Administrative Tribunal
Allahabad Bench, Allahabad**

Original Application No. 1066 of 2005

Allahabad, this the 26th day of August, 2009

Hon'ble Mr. Ashok S. Karamadi, Member (J)
Hon'ble Mr. S.N. Shukla, Member (A)

Poornesh Kumar Shukla, Son of Shri Shivesh Prasad Shukla,
Resident of Village and Post Mahgo, District Basti.

Applicant

By Advocate: Sri R.P. Mishra

Vs.

1. Union of India through Secretary, Posts and Telegraph Department, New Delhi.
2. The Director, Postal Services, Office of the Post Master General-Gorakhpur, District Gorakhpur.
3. Superintendent of Post Office, Basti, - Mandal/Division District Basti.
4. Shri Nand Lal Kushwaha, Superintendent of Post Office, Basti Division, Basti, District Basti.

Respondents

By Advocate: Sri Saurabh Srivastava

ORDER

By Hon'ble Mr. Ashok S. Karamadi, J.M.

The case of the applicant is that he was appointed by the respondents by order dated 01.11.1999 (produced as annexure A-2) as Outsider Contingent Paid Coolie in the pay scale of Rs.2250-3200 with immediate effect till further orders, on temporary basis, and further it is stated that his services were terminated by the respondents without any notice on 03.02.2005. Against the said order, he made a representation to respondent No. 2 (produced as annexure A-5), where he states that the action of respondents is

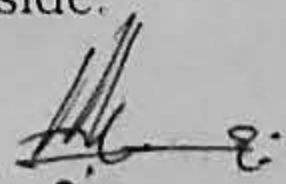


illegal as the applicant has neither served with any notice nor afforded opportunity of hearing before passing the termination order.

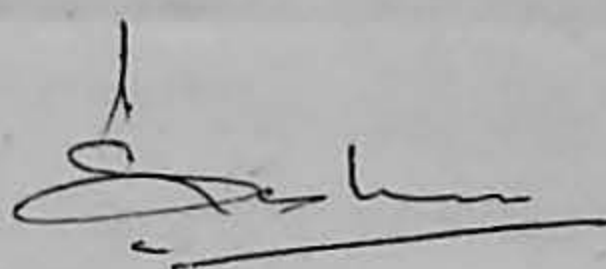
2. On notice, the respondents have filed the Counter Affidavit, and contended that the applicant has no legal right to continue on the said post as he was given appointment on temporary basis, therefore, no rule is applicable in his case as in the appointment order itself it is mentioned that applicant's engagement on the post of C.P. Coolie is purely temporary and can be terminated at any time without assigning any reason there for.

3. It is seen from the pleadings that in this case applicant challenged the termination order dated 03.02.2005, however, in the Counter Affidavit the respondents have mentioned the date of termination order as 04.02.2005. The applicant's case is that as he served the department for more than four years, before passing any order of termination of his services, he should be served with notice or afford opportunity of hearing, and even otherwise, it is seen, that the respondents have not disposed of his representation. It is clear from the pleadings that the applicant has served in the respondents' department for a period of more than four years. Accordingly, in our considered view, the order of termination passed by the respondents is not sustainable in the eye of law as the same was passed without giving any opportunity of hearing or without giving any show cause notice to the applicant.

4. Accordingly, O.A. is allowed and the impugned order, said to have been passed by the respondents on 04.02.2005, is set aside.



However, in the interest of justice, the competent authority in the respondents' department is directed to pass a fresh speaking and reasoned order in accordance with law taking into consideration of the representations submitted by the applicant within a period of two months from the date of receipt of a copy of this order. However, liberty is also given to the applicant to bring to the notice of the respondents, if any, other information within two weeks from the date of receipt of a copy of this order. No order as to costs.



[S.N. Shukla]
Member 'A'



[Ashok S. Karamadi]
Member 'J'

/M.M/