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Stanely Paul Applicant

Union of India and others .. Respondents

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(By Hon'ble Mr Maharajdin, Member-J)

The applicant was working as C.P. Chaukidar in Post Office Lalganj, Azamgarh. The applicant received the order to the effect that he will be discharged from service after three months of the order passed on 17 02 86 (Annexure - II). The applicant produced a medical certificate about fitness of his health for serving as Chaukidar (Annexure - III). The order of removal of the applicant from the service is illegal and arbitrary, hence it is liable to be set aside.

The respondents filed Counter Reply and resisted

the claim of the applicant that the applicant has attained the age of 65 years and he is physically unfit to discharge the duty of C.P. Chaukidar properly.

We have heard the learned counsel for parties and perused the record.

The applicant was working as Postman and he retired from service on 30 11 78 on reaching the age of superannuation. After the retirement the post of Contingent paid Chaukidar was created in the new post office and on request of the applicant, he was engaged to work as C.P. Chaukidar vide office letter dated 31 07 81 (Annexure C.A.-1). The applicant had born on 18 11 1920 and completed 67 years of his age and was not physically fit to perform the duties of C.P. Chaukidar. The applicant before being discharged, was served with the notice about termination of his service vide letter dated 17 02 86. The Chief Medical Officer Azamgarh vide letter dated 01 12 86 intimated that the applicant was found to be of sound health. The Chief Medical Officer was, however, not informed about the age of the applicant. Another

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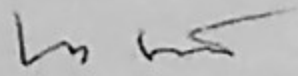
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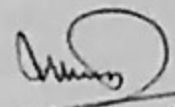
letter was written to the C M O Azamgarh asking him to submit his report about the physical fitness of the applicant taking into consideration of his age (Annexure CA-II). In response of the said letter, the office of C M O Azamgarh intimated that the applicant was completing the age of 66 years and he was not fit to perform his duty of C.P. Chaukidar (Annexure CA-III). Thus keeping in view the report of C M O Azamgarh, it was considered that the applicant was an old man and he was not physically fit to perform the duty of C.P. Chaukidar. The post of C.P. Chaukidar is important post. In place of applicant new C.P. Chaukidar has been appointed vide letter dated 29 12 86, who resumed the duties on 17 10 87. The applicant was deployed on the post of Chaukidar at a newly created post on daily wages, as such, he was also not required to be served with any notice of termination, but three months' notice was served on the applicant before he was discharged from duty.

The applicant, after retirement from the post of Postman, was re-employed and was engaged as Chaukidar and worked upto the age of 66 years. He had become very

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old and is not physically fit to discharge his duty as
a Chaukidar. We feel that the order of termination is
neither arbitrary nor violative of principles of natural
justice, so the same is not to be interfered with.
Accordingly the application of the applicant is dismissed
with no order as to cost.


MEMBER-A


27.4.93
MEMBER-J

DATED: Allahabad
April 27th, 1993.

(VKS)
