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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration C.A. No.281 of 1990

Vimal Prasad Srivastava .... Applicant

Versus

Union of India & Others ..... Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, VC)

The applicant has approached this Tribunal for a relief that the termination order dated 27.3.90 passed by the Sub Divisional Inspector (Post Office) Sub Division, Phulpur, District Azamgarh may be quashed. The applicant was appointed as EDDA in Branch Post Office Baraiapur, District Azamgarh vide letter dated 24.8.87 against stop gap arrangement in place of one Harendra Deo Pandey but the said Harendra Deo Pandey got his promotion vide order dated 24.8.87. The applicant was still working when the post was advertised and names were asked from the Employment Exchange for regular selection in March, 1988 on this post. The applicant including respondent No.4 Raja Ram applied for the same. The applicant is not aware of any interview but he got another letter of appointment dated 12.4.88 stating therein that since the regular selection is not possible therefore the applicant is being appointed provisionally till a regular selection is made. It appears that respondent No.4 made a complaint to the various authorities stating therein that the post should be given to a member of the Scheduled Caste community and there was no other complaint against him. It was

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thereafter taken a decision that respondent No.4 may be appointed in place of the applicant that is why the termination order was passed. Respondent No.4 being a member of the Scheduled Caste Community cannot be the same in educational qualification as that of the members of the general community. Respondent No.4 <sup>1</sup> ~~although~~ filed an Affidavit which has been rejected as it has not been signed and verified. We have heard the learned <sup>1</sup> ~~counsel~~ on all the pleas which have been raised by him and the learned counsel for the respondents who also supported the case of respondent No.4. It is clear from the record that no fresh selection has taken place and that it is because of the complaint of respondent No.4 he was directed to be appointed without there being any selection for the said post. Even though it may be provisional appointment of the applicant but fresh selection did not take place. There is no denial of the fact and his services were terminated without giving him any opportunity of hearing or apprising him of the complaint. Without there being any misconduct or any other ground on which services could have been terminated, his services could not have been terminated on this ground also. The order of termination is obviously arbitrary and cannot be sustained. Accordingly, the application deserves to be allowed the termination order dated 27.3.90 is quashed and the applicant shall be reinstated back with all consequential benefits till the regular selection to the post does not

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take place. In case the applicant is selected he should be appointed. Let the selection take place within three months from the date of communication of this order. In the circumstances of the case, there will be no order as to costs.

*transcript*

Member (A)

*Umeshwaran*

Vice Chairman

Dated the 15th March, 1991.

RKM