

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Original Application no. 467 of 1990.
Transfer Application no. _____

Date of Decision 23.12.96

Nand Lal Maurya.

Petitioner

C/A: Sri O. P. Gupta.

Advocate for the
Petitioner

V E R S U S

U.OF India and others.

Respondents.

C/R: Sri C.S. Singh.

Advocate for the
Respondents.

C O R A M

Hon'ble Mr. Dr.R.K.Saexna, J.M.

Hon'ble Mr. D.S.Baweja. AM.

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordship wish to see the fair copy of the judgement ?
4. Whether to be circulated to all Bench ?


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SIGNATURE

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Reserved;

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

Dated This 23rd Day of December, 1996.

CORAM: HON'BLE Dr. R.K.Saxena, JM.

HON'BLE Mr. D.S.Baweja. AM.

ORIGINAL APPLICATION NO: 467 OF 1990.

Nand Lal Maurya son of
Sri Gobardhan Prasad Maurya,
Ex-E.D.D.A (Post office Vijaipur),
village and Post: Vijaipur, Mirzapur.

C/A Sri O.P.Gupta. ... Applicant.

Vs.

1. Union of India, through Secretary,
Ministry of Communication,
Govt. Of India, New Delhi.

2. Chief Post Master General, Lucknow.

3. Director ,Postal Services, Lucknow.

4. Assistant Superintendent
of post Officers, (West),
Mirzapur Division, Mirzapur.

.. Respondents.

CR/ Sri K.C.Sinha.

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ORDER:

(By Hon'ble Dr. R.K. Saxena, J.M.)

The applicant has approached the Tribunal Under Section 19 of the Administrative Tribunals Act, 1985. He has challenged the orders dated 22.11.1989 (annexure A-1) and dated 25.11.1989 (annexure A-1/1), through which, Sri Vijai Shanker, was appointed as Extra Departmental Delivery Agent (for short EDDA) and the appointment of the applicant was cancelled. The brief facts of the case are that the applicant was posted as EDDA at Vijaipur Post office of the district Mirzapur by the Assistant Superintendent of Post Offices. The applicant had taken over as EDDA on 7.4.1989. He worked for several months. In the meantime, the names were called from the Employment Exchange for regular appointment. It appears that the name of several persons including the applicant and of Vijai Shanker were sent. Ultimately, the appointment was made of Sri Vijai Shanker, and, therefore, the applicant was directed to hand over charge to Sri Vijai Shanker.

2. Feeling aggrieved of the orders this O.A. has been filed on the ground that the termination order was void ab-initio, illegal and arbitrary because, no showcause notice was given. ~~nor~~ The applicant was appointed because of clear vacancy yet, his services were terminated.

3. The respondents have contested the case by filing a counter-reply. It is contended that the appointment of the applicant as EDDA was not made in a regular manner. It is stated that one Sri Bhairo Prasad, was working as EDDA and since he ~~retired~~ from service on superannuation, the post of EDDA fell vacant.

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Consequently, the sub-post master, Vijapur was directed to engage a person on his personal responsibility and accordingly, Sri Baij Nath was engaged on 27.1.1989. He was engaged for a short period. The regular selection process started and the Employment Exchange sponsored 15 candidates including the applicant. Sri Vijai Shanker, was finally selected because, he fulfilled all the qualifications and also, he belonged to Scheduled caste community. It is urged that the appointment of the applicant was not on regular basis.

4. The applicant filed rejoinder restating the fact which were mentioned in O.A.

5. We have heard the learned counsel for the party and have perused the record.

6. It is clear that at the time of appointment of the applicant, no regular selection was made. It is true that the post on which the applicant worked, was vacant on account of vacancy because, Sri Bhairo Prasad super-annuated. Mere fact that there was vacancy and the applicant worked on the post will not make him entitled for the post. Whenever there is a vacancy, the selection is to be made whether it is temporary, or permanent. The appointment which is made for ~~staff~~-gap arrangement, can give no validity and incumbent does not acquire any right on that basis. It emerges from the facts set out that the regular process for selection started only when the names were called for from the Employment Exchange. There were 15 candidates including the applicant, but Sri Vijai Shanker, was

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found most suitable. There is no averment to point out that the applicant was most deserving candidate than Sri Vijai Shanker. Not only this, Sri Vijai Shanker, has not been made party by the applicant. In such a situation, he was deprived to say anything anywhere. It is clear that the applicant could not be found suitable in the regular process of selection. Thus, his continuance on the post of EDDA ~~was~~ caused in no manner legal.

7. It has been urged that no notice has been given to the applicant before the order of termination was given effect to. The person who enters in service from the back door, has got no right to claim the principles of natural justice. Moreover, the appointment of the applicant was ~~for~~ ^{one} his ~~staff~~ gap arrangement. Therefore, his removal could be done without giving any notice.

8. On consideration of all the facts, we come to the conclusion that there is no substance in the O.A. and therefore, it is dismissed. No orders as to the costs.

S. Biju *J. M.*

RCs/