

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 23 of 1992

Raghav Raj Singh Applicant
Versus
Union of India and Others Respondents

CORAM:

Hon'ble Justice U.C. Srivastava, V.C

Hon'ble Mr. K. Chayya, Member(A)

The pleadings are complete, the case is being heard and disposed of finally. That one Ram Nath Tewari ^{who} was working as Extra Departmental Branch Post Master Pichari was ordered to ^{be} put off from duty on 27.9.84 for the charge of embezzlement of Rs.4000/- from the office and also for dereliction of his duty and misconduct in service. In order that the work may go on the post of Branch Post Office Pichari was advertised on 1.12.1984 and the applicant applied for appointment on the said post on 29.12.1984. After proper selection having been held, the applicant was selected and he was accordingly directed to join on the said post by 4.1.1985. The applicant continued to work for the post for five years. Thereafter the Office of the Director Postal Services Gorakhpur informed him that the Senior Superintendent of Post Offices, Azamgarh has passed an order and directed him to hand over the charge to Ex- EDBRM Sri Ram Nath

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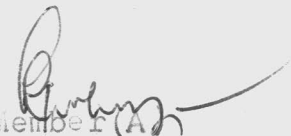
Tewari. The applicant further prayed that against Sri Ram Nath Tewari a departmental proceeding as well as criminal case for committing embezzlement of public money from the branch post office Pichari on the chargesheet submitted by the police is still pending. He has filed an appeal against the same and the same was allowed and he was reinstated in the service on 16.12.91.

2. The counsel for the applicant contended that his appointment was regular in respect to the vacancy, consequently his appointment could not have been terminated merely because of the disciplinary proceedings pending against Ram Nath Tewari and further it was also subject to the criminal proceedings and the criminal proceedings are still continued and the said Ram Nath could not have been reinstated. It may be that, the criminal proceedings are pending but the appointment of the person cannot be terminated because of the criminal case. As per the order of the Appellate Authority dated 16.12.1991, Sri Ram Nath Tewari was ordered to be taken back on duty with immediate effect vide order dated 24.12.91 and in consequence thereof the adhoc appointment of the applicant was terminated. The applicant having been appointed on purely adhoc and provisional basis subject to the finalisation of the disciplinary proceedings in the case of Sri Ram Nath Tewari and having been accepted by the applicant, he cannot complain against termination of his appointment. The said Ram Nath Tewari

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has been reinstated in the permanent vacancy and the applicant was holding the office temporarily under the expectation that incase/ the termination of the said Ram Nath Tewari, the applicant will be treated to be regular EDBPM. In view of the fact that the applicant was worked for 6 years continuously as EDBPM after due selection he could not get priority for appointment against the similar post.

3. Accordingly, so far as the relief against the termination, the respondents are directed to consider the case of the applicant for his appointment as EDBPM and the respondents shall be given applicant the priority and preference to any other person. No order as to the costs.


Member (A)
Vice Chairman

Dated: 14th January: 1993:

(Uv)