

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

O.A. No:

349 of 1992

T.A. No:

of 199

DATE OF DECISION: 26.7.93

Gauri Shanker Vaish

PETITIONER.

ADVOCATE FOR THE
PETITIONER

V E R S U S

Union of India

RESPONDENTS

ADVOCATES FOR THE
RESPONDENTS

CORAM:-


The Hon'ble Mr. MAHARAJDIN MEMBER J

The Hon'ble Mr. V K SETH MEMBER A

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 Lordships wish to see the fair copy of the judgement?
4. Whether to be circulated to all other Benches?

No

JAYANTI/


SIGNATURE

THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Original Application No. 349 of 1992

Gauri Shanker Vaish ... applicant

Versus

Union of India and others ... respondents

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HON'BLE MR MAHARAJDIN, MEMBER-J
HON'BLE MR V K SETH, MEMBER-A

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

This application has been filed by the applicant seeking the relief of direction to the respondents to allow him to perform his duties as Extra Departmental Delivery Agent and he be paid his salary regularly, and in the alternative it is prayed that the applicant be given alternative employment.


The applicant was appointed on the post of Extra Departmental Delivery Agent (hereinafter referred to as EDDA), vide order dated 18 08 88 on the vacancy caused on account of put off duty of Shri Ramesh Prasad Mishra, the then EDDA posted at Beni Madhav Nagar Post Office, Pratapgarh. The applicant's services have been terminated with effect from 23 08 91 without giving any order in writing. The applicant submitted representations (Annexures A-II and A-III), but no action was taken, hence the applicant has come up before

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this Tribunal for redress.

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

Admittedly the applicant was appointed as EDDA on the vacancy caused by Ramesh Prasad Mishra, who was involved in a criminal case. The appointment letter (Annexure A-1) was issued to the applicant when he was appointed as EDDA wherein it has been clarified that Gauri Shanker Vaish (applicant) should clearly understand that if ever it is decided to take Shri Ramesh Prasad Mishra back into service, the provisional appointment will be terminated without notice. So the applicant was made to understand that his appointment was provisional and whenever it is decided to take Shri Ramesh Prasad Mishra back into service, the provisional appointment of the applicant will be terminated without notice. The applicant, in pursuance of the appointment letter joined duty on 25 08 88 and worked as E.D.D.A. till 22-08-91. The disciplinary proceedings against Ramesh Prasad Mishra came to an end and he was exonerated during the course of his enquiry. Shri Ramesh Prasad Mishra was taken back in service, therefore, the



services of the applicant came to an end.

It has been contended on behalf of the applicant that no notice was served on him before termination of his service as contemplated under Rule 6 of E.D.D.A. (Conduct & Services) Rules 1964 which reads as under :

"6. TERMINATION OF SERVICES. - The service of an employee who has not already rendered more than three years' continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice."

As mentioned above the applicant joined service on 25-08-88 as EDDA and he was relieved from the post on 22-08-91, so he did not complete three years continuous service in the department and the provision of Rule 6 which requires service of notice before terminating his services are not attracted.

The applicant was appointed as EDDA in pursuance of the written appointment letter (Annexure A-1), so his services should have also been terminated by a written order.


The applicant has stated that he was relieved from the service by the impugned order and no written order as such was served on him. For this purpose the reliance has been placed on a case reported in "1989(2), U.P.L.B.E.C. - 25(Tri) Nagendra Singh versus Sub-Divisional Inspector, Post Offices, Chhibramau, Fatehgarh and others" in which it has been held

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"Rule 6 gives authority to the appointing authority to terminate the services of a E.D. Agent, who has put in less than 3 years service without giving any notice but, it does not provide for non-issue of a written order and its service on the employee. The applicant was given an appointment in writing and if at any stage it become necessary to terminate his services, this should have been done by issue of a written order."

The post on which the applicant was provisionally appointed has been already filled by reappointment of Ramesh Prasad Mishra. Thus appointment of Ramesh Prasad Mishra has been made and the applicant has been relieved in compliance of the condition mentioned in Annexure A-1. Now the question of appointing the applicant on the same post in place of Ramesh Prasad Mishra does not arise. The applicant while filling this application has already anticipated ^{the} ~~eventuality~~ that his appointment on the post of E.D.D.A. was not possible so he made a request for providing relief of alternative employment in the department. We have given our anxious thought over it and taking into consideration the period for which the applicant served the department, it is desirable on the part of respondents to provide him alternative employment.

In view of the discussions made above we partly allow the application and direct the respondents to provide the applicant alternative employment on a suitable post.



There will be no order as to cost.


MEMBER-A


MEMBER-J

DATED: ALLAHABAD, JULY 26TH, 1993.

(VKS PS)
