

THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Original Application No.430 of 1992

Niranjan Kumar .. Applicant

versus

Union of India and others .. Respondents

**

HON'BLE MR MAHARAJDIN MEMBER-J

HON'BLE MR V K SETH MEMBER-A

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

The applicant has filed this application under Section 19 of The Administrative Tribunal Act 1985 to quash the order of termination dated 18 02 92 passed by respondent No.3.

The relevant facts giving rise to this application are that the applicant was appointed as Extra Departmental Branch Post Master (E D B P M) in the year 1991 (Annexure A-2). The applicant took charge of Branch Post Office Kewari Mustah-kam Basti w.e.f 14 01 91 (Annexure A-3). The applicant was appointed as E D B P M in a provisional vacancies caused due to put off duty of Sarvashel Verma E D B P M, Post Office Kewari Mustah-kam Basti. Sarvashel Verma was ordered to be taken back on duty, consequently services of the applicant were dispensed with.

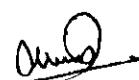
Respondents filed Counter Reply and resisted the claim of the applicant on the ground that the appointment of the applicant was on provisional vacancy caused due to



put off duty of Sarvshael Verma. When he has been ordered to be taken back on duty, the services of the applicant were dispensed with.

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

The applicant was provisionally appointed on the post of E D B P M with clear notice contained in para 3 of appointment letter dated 01 01 91 in which it is mentioned that the services of the applicant were provisional and may be terminated at any time, Whenever it is decided to take back Sarvshael Verma in service. The charge of E D B P M on taking back to Sarvshael Verma has been transferred to him who is working as E D B P M Kawari Mustah-kam Basti since 24 03 92. The applicant joined as E D B P M accepting the conditions mentioned in the letter dated 01 01 91. No notice was required to be given before dispensing with the services of the applicant, as such there has been no violation of the principle of natural justice nor the order dispensing with his services is punitive. The officials holding an appointment in the clear vacancy and not provisional, caused due to put off duty of some other officials are fully protected under E.D.As.(Service and Conduct) Rules 1965 if they have completed three years service. The appointment of the applicant was provisional against put off vacancy with clear notice, as such, he is



not entitled to have benefits of regular employee. The order of termination of services of applicant is in conformity with the conditions laid down in the appointment letter dated 01.01.91.

Thus in view of the facts and circumstances
of the case ^{we} A find no merit in the application of the applicant which is hereby dismissed. Keeping in view the services rendered by the applicant, the respondents are directed to accommodate, if possible, in the vacancy caused elsewhere on preferential basis. There will be no order as to cost.


y. 5.93
MEMBER-J

MEMBER-A

Dated : Allahabad
May 4th , 1993.

(VKS PS)