

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 18TH DAY OF MARCH, 1998

Original Application No. 801 of 1992

HON.MR.S.DAYAL, MEMBER(A)

HON.MR.J.P.SHARMA, MEMBER(J)

Krishna Kumar Mishra, son of
Sri Pradumna Kumar Mishra
R/o village & Post Diha District
Allahabad(Extra Departmental Branch
Post Master) Diha, Distt. Allahabad.

.. .. Applicant

(By Adv: Shri L.P. Singh)

Versus

1. Union of India through Secretary
Post & Telegraph Department
New Delhi.
2. The Senior Superintendent of
Post Offices, Alld. division, Alld.

.. .. Respondents

(By Adv: Shri N.B. Singh)

O R D E R(Oral)

HON.MR.S.DAYAL, MEMBER(A)

This is an application u/s 19 of the Administrative Tribunals Act 1985.

2. The applicant had filed this application for seeking the relief of setting aside of order dated 28.4.92/25.5.92 passed by the respondent no.2 putting of the services of the applicant with immediate effect. Another prayer made in the application is that Rule 9 of E.D.D.A(Conduct & Service Rule 1964 should be declared ultra vires and arbitrary and opposed to public policy.

3. The facts as stated by the applicant in the application are that the applicant joined as E.D.B.P.M, Diha on 15.10.86. The applicant was transferred and posted as E.D.B.P.M Kohnar vide order dated 2.11.1988 and again been transferred and posted as E.D.B.P.M, Diha by order dated 6.4.1990. The applicant has been put off from duty despite there being no

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complaint and performing his services to the full satisfaction of the respondents. He also claims that since he was holding a civil post he should not be put off without payment of any subsistence allowance.


4. The respondents in their counter affidavit has mentioned that the applicant served as E.D.B.P.M, Diha in place of one Sri Ram Surat Yadav who was dismissed while working as E.D.B.P.M, Diha. His dismissal was set aside by the Apex court and Sri Ram Surat Yadav had to be put back as E.D.B.P.M, Diha removing the applicant whose services to be terminated w.e.f. 1.11.1988. In the meanwhile the post of E.D.B.P.M, Kohndar (Karchchana) fell vacant due to removal of Sri Mukhtar Ahmed from service and the applicant was given alternative appointment on the post of EDBPM Kohndar. However, the penalty given to Sri Mukhtar Ahmed was removed by D.P.S Allahabad and the punishment was quashed and the services of the applicant again terminated w.e.f. 12.10.1989. The applicant moved an application for alternative appointment on 17.1.1990 and the post of EDBPM, Diha fell vacant due to promotion of Sri Ram Surat Yadav as Postman and Sri K.K. Mishra was posted in his place. A complaint was received against the applicant regarding abnormal delay in payment of money order at Diha and he was found prima facie responsible in the course of inquiry and therefore he was put off from duty by the impugned order. However, on his representation he was put back on duty subject to inquiry under Rule 8 by order dated 23.6.1992.


5. The above narration makes it clear that the applicant has not given the correct facts in his application.

6. As regards payment of subsistence allowance during the period an Extra Departmental Delivery Agent is put off from duty.

7. The conditions of such Agents are governed by E.D.D.A(Service&Conduct) Rule 1964. There is a provision in Rule 9(3) that an employee shall not be entitled any allowance for the period which he is kept off duty under the Rule. The applicant has put forth no reason as to why this rule should be considered unconstitutional. He has himself admitted that in case of major punishment such powers can be exercised hence no case has been made out for considering Rule 9(3) as unconstitutional.

8. Since the order put off has been revoked, subsequently no cause of action remains the application is therefore dismissed. No order as to costs.


MEMBER(J)


MEMBER(A)

Dated: 18th March, 1998

Uv/