

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 14th day of November, 2000

Original Application No.1017 of 1992

CORAM :-

Hon'ble Mr. Rafiquddin, J.M.

Hon'ble Mr. S. Biswas, A.M.

Shri Bali Ram Yadav,

S/o Vishwanath Yadav,

R/o Gram- Katharwa,

Post-Office- Banket,

District-Azamgarh.

(Sri R.C. Sinha, Advocate)

. . . . . Applicant

Versus

1. The Union of India through  
Secretary, Ministry of Post and Telegraph,  
New Delhi.

2. The Sub Divisional Inspector,  
Azamgarh (East).

(Km. Sadhna Srivastava, Advocate)

. . . . . Respondents

ORDER (O\_r\_a\_l)

By Hon'ble Mr. Rafiquddin, J.M.

The applicant was found suitable for the post of EDDA , Hafizpur(Banket), district Azamgarh and was appointed as such on 24-2-1992 vide appointment letter dated 24-2-1992. The applicant took charge of the post on 4-3-1992 and has been continuously working on the post with entire satisfaction to his superiors. But on 26-9-1992, the applicant was asked to hand over the charge of the post which he handed over on 26-1-1992. The applicant by means of this OA has challenged this action of the respondents on the ground that the same is arbitrary, malafide and

against the public interest.

against the principles of natural justice.

2. The respondents in their counter affidavit have justified their action by stating that one Mr Bhanu Pratap Singh, who was working on the post in question was being proceeded departmentally for not making payment of the amount of certain money orders and consequently he was ordered to be put off duty. After departmental enquiry the said Mr. Bhanu Pratap Singh was dismissed from service vide order dated 20-1-1991. After dismissal of the said Mr. Bhanu Pratap Singh, the vacancy was filled up by making appointment of the applicant under proforma 'B' of EDA Rules, on 24-2-1992. It was stated that the appointment of the applicant was provisional and in case Mr. Bhanu Pratap Singh is taken back on duty, the applicant services would be terminated without assigning any reason.

3. We have heard counsel for the parties and perused the record carefully.

4. We have read appointment letter dated 24-2-1992 of the applicant and a copy of which is available on record as Annexure-CA-1. It indicates that the appointment of the applicant was provisional subject to finality of the departmental proceedings of Mr. Bhanu Pratap Singh. It was specifically mentioned therein that appointment of the applicant is made till it is finally decided that Sri Bhanu Pratap Singh will not be taken back in service. It is not in dispute that the said Mr. Bhanu Pratap Singh has been taken back and has been posted on the post in question because departmental appeal was allowed and he was exonerated.

5. Learned counsel for the applicant, <sup>however</sup> ~~never~~ insists that since the applicant was provisionally posted on the post in question, a direction may be issued to

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the respondents to give him any alternative employment as EDA in terms of the provisions contained in DGP&T letter of 18-5-1979 which provides that efforts may be made to give alternative appointment to EDAs who are appointed provisionally and subsequently discharged from service due to administrative reasons provided at the time of discharge they had put in not less than three years service. Admittedly, the applicant has put in three months' service, therefore, his case is not covered under the above provision. However, it is provided that in case any vacancy of EDA is falling <sup>in future</sup> vacant, the respondents <sup>will</sup> ~~may~~ consider the case of the applicant if the applicant applies as per rules. The OA is, therefore, disposed of accordingly. There shall be no order as to costs.

*S. On. R. S. J. M. D.*  
Member (A)      Member (J)

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