

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 20th day of March 2001.

Original Application no. 1730 of 1994.

Hon'ble Mr. Rafiq Uddin, JM

Hon'ble Maj Gen K.K. Srivastava, AM

1. Raj Kishore Pandey, S/o Late R.S. Pandey,  
R/o Village and Post Jiguni Bazurg Tehsil  
Gola, Gorakhpur.

2. Shiv Murat Yadav, S/o Sri Vishwanath Yadav,  
R/o village and Post Dhakwa Bazar Khajni,  
Gorakhpur.

... Applicants

C/As Sri R.N. Tripathi  
Sri Anupan Shukla

Versus

1. Union of India,  
through the secretary, Ministry of Post,  
NEW DELHI.

2. Chief Post Master General, U.P.  
LUCKNOW.

3. Superintendent of Post Offices,  
Gorakhpur Division,  
Gorakhpur.

4. Sub Divisional Inspector,  
Urwa Bazar,  
Gorakhpur.

... Respondents

C/Rs Km. Sadhana Srivastava.

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O R D E R (Oral)

Hon'ble Mr. Rafiq Uddin, Member-J.

The applicants were appointed as C.P. Chaukidar vide order dated 01.01.1993 passed by Superintendent of Post Offices (respondent no.3). The applicants joined their duty on 16.01.1993 in pursuance of the aforesaid order of respondent no. 3. The appointment of the applicants were made when the applications were invited through the Employment Exchange, Gorakhpur, by respondent no. 3 on 25.01.93. The applicants claimed that their appointing authority is S.S.P.O. The applicants have been <sup>per</sup>forming their duties of their post continuously and there was no complaint against them. But after completing the continuous service of 2 years, respondent no.4 suddenly terminated their services by order dated 29.10.94 giving one months notice and one month pay in lieu of that notice as under (TS) CCS Rules 5 of the 1965 Code. The applicant states that the Rule 5 CCS (Temporary Services) 1965 is not applicable in their case and the termination order has been illegally passed by respondent no. 4, who is not competent authority of the applicant. The applicant has filed this OA seeking direction to the respondents to allow them to continue on their post and pay their salary and also sought quashing of the termination order dated 29.10.94 (annexure 1).

2. Heard learned counsel for the rival contesting parties and perused the records.

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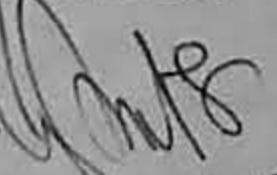
3. It has been stated by the respondents in their CA that the post of C.P. Chaukidar is that of casual labour. Since the promotion of Shri Megha and Ram Jeet, chaukidar was cancelled which was made ignoring the recruitment rules, hence, they were allowed to join back on their previous posts of C.P. Chaukidar vide order dated 28.10.94. Consequently the applicants <sup>who</sup> <sub>1</sub> were newly appointed C.P. Chaukidar were relieved for want of work by Sub Divisional Inspector of Posts, by giving one months' notice allowing in lieu thereof one months salary. It is also claimed that the applicants were engaged by respondent no. 4 on direction of SSPO. The posts of C.P. Chaukidar are not substantive posts and incumbents are paid on contingency.

4. We have perused the order dated 05.03.93 passed by S.S.P.O., Gorakhpur (Annexure 4), which is claimed by learned counsel for the applicants to be <sup>fresh</sup> appointment letter. But, we find that it is merely a direction to the Sub. Divisional Inspector to issue fresh appointment letters after completing their formalities including <sup>character</sup> ~~corrector~~ verification of the applicants. It is pertinent to mention that Sub Divisional Inspector had issued the appointment letter on 10.04.92 (annexure 5) on the basis of direction of respondent no. 3. Therefore, we find that the appointment letter of the applicants were issued by Sub Divisional Inspector (respondent no. 4) and not by respondent no. 3. It is not in dispute that the appointing authority of C.P. Chaukidar is Sub Divisional Inspector of Post Office. The impugned order dated 29.10.94 has also been issued by Sub Divisional Inspector, who is

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competent to do so. Therefore, there is no force in the arguments that the impugned order dated 29.10.94 has not been issued by the competent authority and is illegal and to be quashed on this ground. There is force ~~in~~ on the arguments of learned counsel for the applicant that since the applicants are merely C.P. Chaukidar, Hence, the provision of rule 5 of CCS (temporary services) Rules 1965 is not applicable. But the case of the applicant is <sup>not</sup> prejudiced if the order of terminating their services has been passed under Rule 5 of CCS (temporary services) Rules 1965. We, do not find any illegality or irregularity with the impugned order which has been passed under Rule 5 of CCS (temporary services) Rule 1965.

5. since the services of the applicants were terminated merely because certain regular incumbents joined their posts on which the applicants were working and the applicants have been continuously working for ~~al~~ most 2 years without any complaint and to the satisfaction of the respondents. We provide that, in case any vacancy of C.P. Chaukiar is available within the jurisdiction of respondents or any vacancy falls in future, the case of the applicants will be considered on priority basis and no other junior persons <sup>will be</sup> considered on the said post by the respondents. The OA is disposed of with these directions. No order as to costs.

  
Member-A

  
Member-J

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