

Open Court.

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad This The 22nd Day of August, 2000.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No. 460 of 1994.

Sri Yogendra Yadav,
son of Sri Balkishore Yadav,
R/O Village Sohanpar,
P.O. Bhatpar Rani,
Distt. Deoria.

. . . Applicant.

Counsel for the applicant: Sri Sanjay Kumar Om, Adv.

Versus

1. Union of India through Post Master General,
Gorakhpur.
2. Superintendent Post Offices Deoria.
3. Sub-Divisional Inspector, Post Offices,
Deoria.
4. Sri Subhash Chandra Yadav, son of not known
r/o village Bahroli, Distt. Deoria.

. . . Respondents.

Counsel for the respondents: Km. Sadhna Srivastava, Adv.
Sri Bashisht Tiwari for
respondent No.4.

Order (Open Court)

(By Hon'ble Mr. S. Dayal, Member (A.))

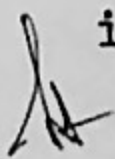
h The applicant has filed this application for a

direction to the respondents to treat the applicant in service as Extra Departmental Telegraph Messenger and pay him salary. A direction has also been sought to the respondents not to give effect to the appointment letter issued to respondent No.4. In the last a prayer has been made for direction to the respondents to regularise the services of the applicant.

2. The facts of the case are that the applicant was appointed as Extra Departmental Telegraph Messenger on the vacancy created by promotion of Sri Daya Shankar Prasad on risk and responsibility of Sri Daya Shankar Prasad. The applicant was appointed on 15.7.93 and continued to work till 12.3.94 when his services were allegedly terminated by an oral order and one Sri Subhash Chandra Yadav (respondent No.4) was appointed. This has led to the filing of this application.

3. The arguments of Sri S.K. Om for the applicant and Kumari Sadhna Srivastava for the respondents have been heard.

4. The learned counsel for the applicant has drawn attention to the provisions of Rule 6 of E.D.A. Conduct and Service Rules 1964 providing for a notice of one month or giving basic allowance plus D.A. for the same period in lieu thereof. It has been contended that without this formality the termination of the applicant is not valid.



5. The learned counsel for the respondents has drawn attention to Annexure C.A-1 which is the application of the applicant himself for appointment to the post of E.D. Telegraph Messenger clearly shows that the applicant understood that he was to work on the post till regular arrangement was made and that he could be removed without any notice. The next to C.A. also shows that the applicant was appointed on the risk and responsibility of Sri Daya Shankar Prasad with clear understanding that he may be discharged by the Appointing authority at any time without assigning any reason.

6. The issue which arises in this case as to what will be the effect of non payment of one month's allowances provided for by Rule 6 of E.D.A Conduct and Service Rules 1964. In the applicant's case it is quite clear that he has no right to continuance or regularisation on the post. He was being replaced by a person duly selected and after following the procedure laid down for filling up the post on regular basis. The only right which accrues the applicant in such a case would be to be paid a sum equivalent to the amount of his basic allowances plus Dearness allowance for a period of one month.

7. As far as the selection of regular incumbent is concerned, the respondents have filed Annexure C A-11 which gives the comparative picture of various candidates and it is quite

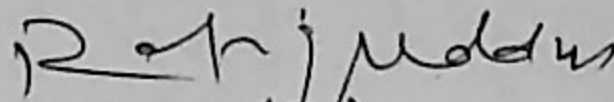
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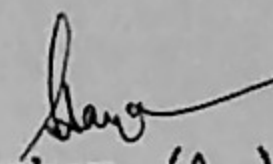
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7. As far as the selection of regular incumbent is concerned, the respondents have filed Annexure C A-11 which gives the comparative picture of various candidates and it is quite

clear that the best candidate was selected and appointed. We, therefore confined² our direction to the respondents to pay one months basic allowances plus dearness allowances within a period of three months from the date of furnishing a copy of this order.

There shall be no order as to costs.


Member (J.)


Member (A.)

Nafees.