

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 838 of 1994

Allahabad this the 20/5 day of Jan 1995

Hon'ble Mr. S. Das Gupta, Member(A)
Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

Chandra Kant Sharma, S/o Late Shri Shiva Charan Lal Sharma, R/o 9/339 Nai Gali, Motikatra Agra presently working as Up Chaukidar in the office of the Senior Supdt. of Post Offices, Agra.

Applicant.

By Advocate Shri Avnish Tripathi
Shri M.K. Upadhyay.

Versus

1. Union of India through Post Master General U.P., Agra region Agra.
2. Director Postal Services, Agra Region, Agra.
3. Senior Superintendent of Post Offices, Agra Region, Agra.

Respondents.

By Advocate Km. S. Srivastava,

ORDER

By Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

** The petitioner was appointed as a C.P. Chowkidar on 30.1.1974 by the Senior Superintendent of Post Offices, Agra and since then he had been working on that post. On 07.4.1994 some theft was detected to have been committed in the building where he was posted and F.I.R. was lodged to the Police. By order dated 07.4.1994 (Annexure-1, the petitioner claims that his services were terminated saying that he has been laid off. He challenges this order on the ground that after having putting so long service he had acquired temporary status and the impugned order is illegal.

as his services could not be terminated without affording him a reasonable opportunity of hearing in an inquiry. He has mentioned that he has not been allowed to perform his duties since the impugned order.

2. The facts of his having been in service since the year 1969 are infact admitted by the respondents. It has also been admitted that he was given temporary status of Group 'D' w.e.f. 29.11.1989 vide an order dated 20.11.1991. They have stressed that he was laid off his duties immediately after the theft was detected. They, further plead that to give the petitioner a reasonable opportunity in view of the instructions issued by the Director General, an office memo dated 9/17-May, 1994 was issued to him calling upon him to show-cause.

3. The learned counsel for the respondents has completely failed to elicit the meaning of "laid off" as used in Annexure -1. It has, however, been conceded that since the passing of impugned order, the petitioner has not been put on ~~in~~ duties nor has been paid any salary or subsistence allowances. We take it that the respondents have treated the services of the applicant terminated by that order. If, they meant by it that the petitioner was ^{put} ~~to~~ under suspension that is not apparent from the impugned order nor by their

actions as neither any disciplinary proceedings have been initiated nor any such proceedings shown to be contemplated. If, the impugned order is an order of retrenchment that apparently is against the law as provisions of Section 25 F of Industrial Dispute Act have not been complied with.

4. It is admitted case that the petitioner after putting in his service of almost 14 years had been conferred upon the temporary status w.e.f. 29.11.1989 vide letter dated 20.11.1991 in the pay scale of Rs.750-940 as per letter dated 29.3.93 (Annexure-4) issued by Senior Superintendent of Post Offices in continuation of communication dated 01.3.1994 received from the Assistant Director General (S.P.N.) New Delhi. It was clarified that services of temporary status casual labourers can be dispensed with incase of mis-conduct after giving due opportunity on the lines of those available to regular employees. This order however, clarified through Annexure-5 letter dated 20th May, 1993 received from the Ministry of Communication, Government of India ~~by action~~ mentioning that services of a casual labourer who has acquired temporary status can be terminated if he, commits mis-conduct provided the same is proved in an inquiry after giving him ~~the~~ reasonable opportunity. It is apparent that in the case of the petitioner no inquiry has been held nor has he been given any reasonable opportunity

of explaining. The impugned order apparently is, thus, ~~supposed~~ not only to the Principles of Natural Justice but, also to the clear instructions issued by Director General, Posts as shown by the Annexure~~s~~ aforesaid. The impugned order, thus, is found to be illegal.

5. The impugned order dated 07.4.1994 (Annexure-1) is, therefore, quashed. The petitioner shall be treated to be in service under the same terms and conditions under which he was working on 07.4.1994 when the impugned order was passed and entitled to receive all the benefits of salary etc. for the intervening period. The respondents are directed to assign the duties to the applicant. The respondents shall, however, be at liberty to take disciplinary action under the rules for the alleged mis-conduct. With these directions, the petition is allowed. No order as to costs.

Jaswinder Singh
Member (J)
/M.M./

W.C.
Member (A)