

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated 17th day of July, 1996

Original Application No.1263/95

District : Fatehpur

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Janki Sharan Singh,  
Son of Sri Saroop Singh,  
R/o Vill & P.O.-Bijayeepur,  
District-Fatehpur.

(By Sri R.K. Pandey, Advocate)

..... Applicant

versus

1. Union of India,  
Through the Secretary,  
Department of Posts, Ministry of  
Communication, Dak-Bhawan,  
Parliament Street,  
NEW DELHI-110001
2. Superintendent of Post Offices,  
Fatehpur Division, Fatehpur.
3. Sub-Divisional Inspector (Post),  
Khaga Sub Division,  
Khaga, Fatehpur.
4. Shri Umakant Dixit,  
R/o Vill & Post-Bijayeepur,  
District-Fatehpur Ex. E.D.D.A.,  
Bijayeepur, (Khaga),  
Fatehpur.

(By Sri SC Tripathi, Advocate)

..... Respondents

O R D E R (O\_r\_a\_l)

By Hon'ble Mr. S. Das Gupta, A.M.

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985, challenging the order dated 26-8-1995 by which Sri Uma Kant Dixit, erstwhile EDDA, who was earlier put off duty, was reinstated in service and consequently the services of the applicant were terminated. He seeks the relief of quashing of the aforesaid order, and a direction to the respondents. He also seeks quashing of the order

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dated 9-11-1995 by which the representation of the applicant has been rejected.

2. From the facts of the OA it is clear that the applicant was appointed as EDDA on provisional basis in the vacancy which was caused ~~in that~~ <sup>due to</sup> the erstwhile incumbent ~~was~~ <sup>being</sup> put off duty having involved in a criminal case. The appointment of the applicant was made by the letter of appointment dated 28-6-1993 (Annexure-A-4). However, the applicant has stated that he has been actually working on that post w.e.f. 16-10-1992 i.e. the date on which the erstwhile incumbent of the post was put off duty. His appointment was subsequently regularised after following the prescribed selection procedure. After selection, he was appointed on provisional basis, with the clear stipulation that if the erstwhile incumbent would be restored back to the post, the applicant's services shall stand terminated.

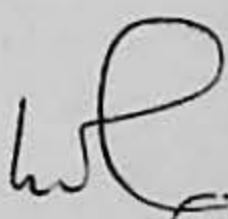
3. The applicant's grievance is that his services have been terminated without giving any notice and in any case the respondent would not have terminated his services on the ground that the erstwhile incumbent has been restored back to the post since there was no such stipulation in the ~~appointment~~ letter issued by the respondents for filling up of the post in question, <sup>in response</sup> to which the applicant had applied.

4. We are not persuaded by this argument. The appointment letter clearly indicates that the said appointment was on provisional basis and in ~~any~~ case the erstwhile incumbent was restored back to service, the services of the applicant would be terminated without any further notice. Admittedly, the erstwhile incumbent has <sup>been</sup> restored back to service and, therefore, in terms of the condition imposed in the ~~employment~~ letter itself, the applicant's services stood terminated.

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5. We have, however, noted that there is an instruction contained in Chapter-III of the ED Staff Service Rules that efforts should be made to give employment to the ED Agents who are appointed provisionally and subsequently discharged from services due to administrative reasons, if at the time of discharge they had put in not less than three years of service. In such cases, their names should included in the waiting list of the ED Agents discharged from the service. According to the averments made in the OA, the applicant has been working since 16-10-1992 although his provisional appointment was actually made only in June, 1993. In case, the applicant had actually started working since 16-10-1992 and in case the services rendered prior to his appointment on provisional basis will count towards the period of three years as envisaged in the instruction referred to above, the respondents should consider inclusion of his name in the waiting list for providing employment on any future vacancy.

6. With the above observation, the application is disposed of. The parties shall, however, bear their own costs.

  
Member (J)  
Member (A)

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