

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD.

Allahabad this the 11 day of January 1996.

Original Application No. 1274 of 1995.

Hon'ble Mr. T.L. Verma, JM
Hon'ble Mr. D.S. Baweja, AM

Smt. Pratibha, W/o Sri Mohan Brijesh,
 R/o Village and Post Chhonk,
 District Aligarh.

..... Applicant.

C/A Sri Anil Kumar

Versus

Union of India through Senior
 Superintendent of Post Office,
 Aligarh & Another.

..... Respondents.

O R D E R

Hon'ble Mr. T.L. Verma, JM

This application Under Section 19 of the Administrative Tribunal Act, has been filed for quashing order dated 24.11.95 issued by respondent No.2 in pursuance of order dated 21.11.95 issued by respondent No.1.

2. One Shri Mohan Brijesh, while working as Extra Departmental Branch, Chonk Branch Post Office applied for study leave for period of two years for studying in Rashtriya Ayurved Vidyapeeth, leave as prayed for was allowed. The said Mohan Brijesh appointed his wife Sh. Pratibha (Applicant) as his substitute for the period of aforesaid leave. The aforesaid arrangement was approved by the respondent. The said Mohan Brijesh had applied for leave with effect from 31.3.93 to 31.3.95.

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From the material on record it appears that after the period of leave expired on March 1995, further leave to the said Mohan Brijesh has not been sanctioned. There is no material on record either to show that an application for extension of leave has been made on behalf of said Mohan Brijesh and the same is pending. From this it follows that the permanent has either left the service or is unauthorisingly absent.

3. The substitute and provisional appointees are not included in the definition of Extra Departmental Agents. The Substitute is merely the nominee of Extra Departmental Agents and He/she works so long as EDA remains in service or on leave. There is no employer and employee relationship between the P & T Department and the substitute. This being the position, the right of the substitute is co-terminous with the right of principal employee. Therefore, with the termination of the principal's service, the service of the substitute also comes to an end.

4. In the instant case, the applicant was working as a substitute in place of her husband ^{who was on leave}. Now that his leave has expired and further leave has not been sanctioned to him, her continuance on the said post, therefore, ^{had} ~~become~~ unauthorised. The respondent are, therefore, within their right ~~in~~ terminating the ad-hoc arrangement, approved while the permanent incumbent was on leave. In view of the above we are of the considered view that the applicant has acquired no right to hold the post. The applicant has therefore, no cause of action of filing this application. This application is therefore, dismissed at the stage of admission as it is not maintainable.

Member (A)

Member (J)

Arvind.