

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

ORIGINAL APPLICATION NUMBER 143 of 1995

TUESDAY, THIS THE 8th DAY OF OCTOBER, 2002

HON'BLE MR. S. DAYAL, MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR, MEMBER (J)

Suresh Chand Yadav,  
s/o Shri Ram Sudhar Yadav,  
employed as E.D. Packer at Terhi, Azamgarh  
Village-Phulehara,  
P.O.-Cheonta,  
District-Azamgarh.

.....Applicant

Counsel for the Applicant Shri Rahul Sripat

V E R S U S

1. Union of India through Ministry of  
Post and Telegraph,  
New Delhi.
2. Senior Superintendent, Post Offices,  
Azamgarh.
3. Sub Divisional Inspector of Post Office,  
West Sub Division,  
Azamgarh.
4. Senior Post Master, Azamgarh.
5. Sri Shyam Narain Tiwari, S/o non known,  
r/o village & Post Office-Cheonta,  
District-Azamgarh.

.....Respondents

Counsel for the Respondents Km. S. Srivastava

O R D E R

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

This application has been filed for setting aside the

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order dated 10.02.1995 and a direction to respondents not to interfere in the functioning of the applicant as E.D. Packer at Post Office Terhi, District Azamgarh.

2. The applicant has claimed that ~~he~~ was discharging duties as Extra Departmental Packer at Terhi Post Office since 16.11.1984. The applicant has stated that he was engaged as Extra Departmental Packer in Terhi Post Office as a substitute of Shri Ram Sudhar Yadav who was transferred as Stamp Vendor Azamgarh. The applicant has claimed that he was continuously discharging ~~the~~<sup>h</sup> duties as Extra Departmental Packer at Terhi Post Office with only two short artificial breaks in 1989 and in 1990 for a few days.

3. It is claimed that the respondent No.5 was appointed as Officiating Extra Departmental Branch Post Master in Cheonta Post Office because the regular incumbent had been put under suspension for embezelement of money. ~~The~~<sup>is</sup> applicant claimed that since Shri Shyam Narain Tiwari has been relieved by Shri Shyam Bihari, the previous incumbent of the Post of Extra Departmental Packer and ~~the respondents~~ are now seeking to replace by Shri Shyam Behari instead of terminating the appointment of Shri Shyam Narain Tiwari.

4. <sup>1</sup>~~We have~~ heard the argument of Km. S. Srivastava, counsel for the respondents ~~on~~<sup>on</sup> account of ~~the~~<sup>the</sup> fact that the learned counsel for the applicant did not remain present and did not pray for adjournment.

5. The learned counsel for the respondents has <sup>filed</sup> drawn attention to para-4 of the Counter reply ~~by~~<sup>by</sup> the official respondents in which it has been mentioned that Shri Suresh Chandar Yadav was engaged as a substitute to work as Extra Departmental Packer, Terhi w.e.f.

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26.12.1994 to 24.02.1995 in place of Shri Shyam Narain Tiwari, E.D. Packer, who was ordered to work as Extra Departmental Branch Post Master, Cheota, District Azamgarh since the regular incumbent was put off duty. On revocation of the order of put off duty, the regular incumbent had to be reinstated and Shri Shyam Narain Tiwari was asked to work on his original post i.e. E.D. Packer and as such the engagement of Shri S. C. Yadav was terminated. The respondents have annexed a copy of the order of appointment of the applicant which is dated 24.12.1994. The order shows that the applicant was asked to work temporary on the post of E.D. Packer Terhi on the risk and responsibility of one Shri Ram Sudhar Yadav, mail peon, Head Post Office, Azamgarh. It was clearly mentioned that the arrangement was temporary and could be terminated without any prior intimation.

6. The respondents have mentioned that the applicant worked as substitute from 16.11.84 to 28.03.88 and thereafter he was engaged as substitute from 26.12.1994 to 24.02.95. Thus the claim of the applicant that he worked continuously from 1985 onwards is not borne out by pleadings on record.

7. Respondent No.5 Shri Shyam Narain Tiwari has also filed a counter reply in which the same facts as given by the official respondents have been brought on record.

8. We find that the applicant does not have a better claim than the respondent No.5, in this case because respondent No.5 was the regular incumbent while the applicant had been engaged only as a substitute. We do not

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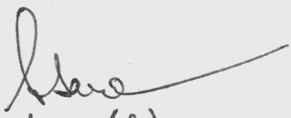
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that  
consider the applicant is entitled to the relief sought.

The application is therefore dismissed.

9. There shall be no order as to costs.

  
Member (J)

  
Member (A)

shukla/-