

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD  
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Original Application  
No. 1074 of 1999

Dated : This the 11th day of February, 2004

Hon'ble Maj Gen K.K.Srivastava, A.M.  
Hon'ble Mr. A.K.Bhatnagar, JM

Nagendra Mishra, aged about 32 years,  
S/o Shri Ram Bilas Mishra, R/o  
Village- Chakiya Balpur, Post Office-  
Sarai Paltu, Tehsil-Lalganj, District-  
Azamgarh.

...Applicant

By Advocate : S/Shri R.Verma, H.N.Tripathi  
and A.K.Mishra.

VERSUS  
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1. Union of India through the Secretary,  
Ministry of Communication, New Delhi.
2. The Senior Superintendent of Post Offices,  
Azamgarh Division, Azamgarh.
3. The Inspector of Post offices,  
Lalganj Sub Division, District-  
Azamgarh.

...Respondents.

By Advocate :-Ms.Sadhna Srivastava.

O R D E R

By Hon'ble Maj Gen K.K.Srivastava, A.M.

In this O.A., filed under section 19 of  
Administrative Tribunals Act 1985, the applicant  
has prayed for quashing the impugned order dated  
08.9.1999 passed by Respondent No.3 in compliance  
to the order dated 07.9.1999 passed by the Respondent  
No.2 relieving the applicant from the Post of Extra  
Departmental Runner(E.D.R.) Sarai Paltu(Gambhirpur)



District Azamgarh (Annexure-A-I). The applicant has also prayed for direction for respondents to treat the applicant to have continued in service as Extra Departmental Runner, Sarai Paltu (Gambhirpur) District Azamgarh with full pay and allowances w.e.f. 08.09.1999 onwards till a regular appointee joins on the aforesaid post.

2. The facts, in short, are that the post of Extra Departmental Runner, Sarai Paltu (Gambhirpur) Azamgarh fell vacant in the month of January, 1999. The applicant was appointed / provisionally basis with the condition that the appointment was tenable till a regular appointment was made. The appointment of the applicant was made after following the procedure as laid down under Rules. The applicant joined on 11.1.1999. The grievance of the applicant is that without any show cause notice the applicant has been removed from the post, by order dated 08.09.1999, passed by respondent no.3. in pursuance to the order dated 07.9.1999. The respondents initiated the selection procedure vide notification dated 16.2.1999, which the applicant challenged by filing O.A. No. 250/1999. The operation of notification dated 16.2.1999 was stayed by this Tribunal by order dated 15.3.1999 and the applicant continued on the same post. However, the O.A. was dismissed as not pressed by order dated 13.2.2002. Aggrieved by the order dated 08.09.1999 the applicant has filed this O.A., which has been contested by the Respondents.

3. Shri Rakesh Verma, learned counsel for the applicant submitted that the respondents could not terminate the services of the applicant in absence

of any regular appointment and the action of the respondents is totally illegal and arbitrary. During his tenure there was no complaint whatsoever against the work and conduct of the applicant.

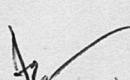
4. Contesting the claim of the applicant Km. Sadhna Srivastava, learned counsel for the respondents submitted that show cause notice was issued to the applicant on 14.7.1999 (Annexure-CA-3). The adhoc appointment was found irregular and, therefore, in view of the principles of natural justice the show cause notice was issued. An ad hoc employee having worked only for eight months, has no right to claim continuity on the post. Learned counsel for the respondents further submitted that father of the applicant made a complaint to the then Communication Minister alleging that the provisional appointment order dated 11.1.1999 in favour of the applicant was illegal and invalid. The matter was enquired into and it was found beyond doubt that the provisional appointment order dated 11.1.1999 of the applicant was irregular. Therefore, the respondent no.2 correctly directed to respondent no.3 for taking necessary action. Since there has been no violation of principles of natural justice, the O.A. is devoid of merit and is liable to be dismissed.

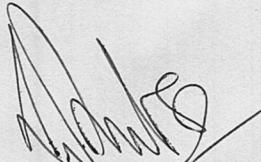
5. We have heard counsel for the parties, considered their submissions and perused records.

6. In our considered opinion, it would be in the interest of justice to issue direction to the respondents to make regular appointment within a specified time, if not already done.

7. In the facts and circumstances, we dispose of this O.A. with direction to respondent no.2 to look into the matter and take necessary action for initiating the process for regular appointment, if no regular appointment has been made so far. The case of the applicant shall be considered, if he also participates in the selection. However, if the regular selection has already been made for the post of E.D.R., Sarai Paltu(Gambhirpur), Azamgarh as per law, the respondents need not take any action.

8. There will be no order as to costs.

  
Member (J)

  
Member (A)

Brijesh/-