

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Allahabad this the 22nd day of November 2000.

Original Application no. 1247 of 1999.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. V.K. Majotra, A.M.

Yatendra Singh,

S/o Shri Ram Singh,

R/o 198-B, Loco Colony, Aligarh.

Posted as Nursing Orderly, Post and

Telegraph Dispensary, Aligarh.

... Applicant

C/A Shri V. Saxena.

Versus

1. The Union of India, New Delhi
through the Post Master General,
Agra.
2. The Post Master General, Agra.
3. The Senior Superintendent of Post Offices,
Aligarh.
4. The Chief Medical Officer (Incharge),
Post and Telegraph Dispensary, Aligarh.

... Respondents

C/Rs Km. Sadhana Srivastava



...2/-

// 2 //

O R D E R (Oral)

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Shri V. Saxena for the applicant and Km. Sadhana Srivastava for the respondents.

2. MA 6050/00, by this MA the applicant has sought^u amendment in the OA by making certain factual averment and also for adding relief against order dated 23.10.99 passed during pendency of this OA. Copy of the order dated 23.10.99 has also been filed as annexure 1. After hearing counsel for the parties, we allow this amendment application. Let the necessary amendments^u be carried out in the OA within 3 days. CA has already been filed. This OA can be disposed of finally on a short question of law. We have heard Shri V. Saxena for the applicant and Km. Sadhana Srivastava for the respondents.

3. It appears that the applicant was engaged as Nursing Orderly on daily wage basis in the year 1989. He continued on the post ~~of~~^{since} then. He filed this OA for direction to the respondents to regularise him in the service. He has also prayed that orders dated 26.7.99 & 2.9.99 be quashed and respondents be directed not to interfere with the working of the applicant on the post of Nursing Orderly in the Post and Telegraph Dispensary, Aligarh.



...3/-

4. In paragraph 5 of the counter affidavit, it was disclosed that the services of the applicant has been terminated on 23.10.99. A bench of this Tribunal on 17.10.00 required the respondents to file copy of order dated 23.10.99 and also permitted the applicant time to seek suitable amendmentsⁱⁿ in the OA. Copy of order dated 23.10.99 has also been filed alongwith amendment application, allowed by this order. In our opinion it is no longer necessary to file order dated 23.10.99 by the respondents. From perusal of para 5 of the CA it appears that the P.M.G. on noticing^{for} certain irregularitiesⁱⁿ on appointment and continuing^{for} of daily wages^{of}, issued a direction to terminate the engagement of the applicant. Copy of this order has been filed as annexure A-1 to the OA. In pursuance of this order of P.M.G. the impugned order dated 23.10.99 has been passed terminating the applicant from service. In our opinion, since the applicant had already worked for more than ten years, his services should not be terminated in this manner and if any irregularitiesⁱⁿ was found in his appointment or his continuing^{for} of the post, he ought to have been given opportunity of hearing which, in this case has not been given. Even a daily wager, who had worked for such a long time is entitled^{for which his claim was pending} for opportunity and claim regularisation on the post. In the circumstances, the order being in violation of Principal of Natural Justice cannot be sustained.

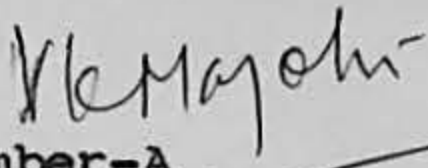


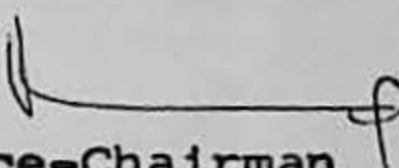
...4/-

// 4 //

5. For the reasons stated above, the OA is allowed, the order^{26-7-99 and 2-9-99 are} dated 23.10.99 ~~is~~ quashed. However, it shall be open to the respondents to pass fresh order in accordance with law. The applicant shall be re-engaged on the post. However, he will not be entitled for back wages except for the days he worked on the post. The respondents shall also consider the claim of the applicant for regularisation on the post.

5. There shall be no order as to costs.


Member-A


Vice-Chairman

/pc/