

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1192 OF 2000

ALLAHABAD, THIS THE 21st DAY OF APRIL, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MR. S. C. CHAUBE, MEMBER (A)

Pawan Kumar Tiwari
son of Late Shri Vidya Pati Tiwari,
resident of Village and Post-Bheelam Pur
Chhapra, Tehsil Budhanpur, District-Azamgarh.

.....Applicant

(By Advocate : Shri S.S.P. Gupta)

V E R S U S

1. Union of India through the Chief Post Master General Uttar Pradesh Parimandal, Lucknow.
2. U.P. Mandaliya Nirikshak, Paschim, U.P. Mandal, Azamgarh.
3. Perwar Dak Adhikshak Dak Char, Azamgarh.
4. Ram Singh E.D.M.P. Resident of Bankar Jagdish, District-Azamgarh.

.....Respondents

(By Advocate : Shri G.R. Gupta)

O R D E R

By Hon'ble Mrs. Meera Chhibber, Member (J)

By this O.A. applicant has sought ~~the~~ quashing of the order dated 09.10.2000 with a specific direction to them ~~as~~ not to interfere with the functioning of the applicant on the post of E.D.M.P. Post Office Keshav Pur, District Azamgarh.

2. The brief facts as stated by the applicant are that his father Shri Vidyapati Tiwari was appointed as E.D.M.P. on 27.03.1958 on permanent basis. He was due to retire from service in 2004 but unfortunately he died on 24.11.1999 in harness. Applicant immediately gave an application for compassionate

appointment on 01.12.1999. Vide letter dated 01.12.1999(Pg.16) applicant was appointed as E.D.M.P. in the post office of village Keshav Pur with the condition that in case his appointment is not approved by the Chief Post Master General, Uttar Pradesh Parimandal, Lucknow, he ^{would} leave the post voluntarily. Applicant joined the post and was working there without any complaint but all of a sudden, he was removed from service vide letter dated 09.10.2000 on the ground that Chief Post Master General has not approved his compassionate appointment(Pg.9). In the said letter Shri Ram Singh E.D.M.P. Banker Jagdish was directed to engage some substitute in his place and to take over charge of Shri Pawan Kumar Tiwari by working there on ad-hoc basis. It was further stated in this order that this is absolutely ad-hoc arrangement and cannot be brought to an end at any time without any notice.

3. Applicant has challenged this termination on the ground that C.P.M.G. had indeed given his approval vide letter dated 22.03.2001 for giving compassionate appointment to the applicant by endorsing a copy of the same to him(Annexure RA-I). Therefore, the ground taken by respondents No.2 while terminating his services is not at all sustainable. Therefore, the impugned order is liable to be quashed on this ground alone. Counsel for the applicant further submitted that applicant was given appointment on compassionate grounds on regular basis, therefore, it could not have been terminated without following due process of law.

4. Respondents on the other hand have submitted that petitioner was engaged in place of his deceased father who died in harness, on the condition that if his engagement/appointment is not approved by the Chief Postmaster General, U.P. Circle, his engagement will be terminated. This condition was accepted



by the petitioner and since his engagement of compassionate appointment was not approved by the Chief Post Master General U.P. Circle, Lucknow, thus, his engagement was terminated and he is not entitled to the reliefs as claimed by him. They have, thus, submitted that the O.A. may be dismissed.

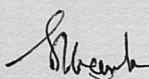
5. We have heard both the counsel and perused the pleadings as well.

6. The main ground on which applicant's services were dis-engaged by respondent No.2 was that Chief Postmaster General had not given approval for his appointment on compassionate grounds whereas applicant has annexed letter dated 22.03.2001 issued from the office of Chief Postmaster General, U.P. Parimardal, Lucknow wherein approval has been given by the Chief Postmaster General for giving compassionate appointment to the applicant. This letter is annexed with the rejoinder affidavit, which was filed by the applicant as back as on 10.04.2001. Respondents have not taken any steps to rebut this averment nor have they annexed any letter to show that the ~~case of~~ ^{the applicant} ~~was~~ rejected by the Chief Postmaster General. In fact applicant has stated in his rejoinder affidavit that it is absolutely false to say that by means of letter dated 27.05.2000 respondent No.3 had directed to respondent No.2 to relieve the applicant. In view of the fact that Chief Postmaster General had already given approval for his appointment on compassionate grounds. He has further stated that the details about the applicant were sent by the Superintendent of Post Offices Azamgarh to the Chief Postmaster General, Lucknow only on 20.12.2000 whereupon approval was given by the Chief Post Master General, Lucknow. In these circumstances, when applicant has annexed the letter dated 22.03.2001 with his rejoinder, we cannot ignore the same




as it would have direct bearing in the present case. Even otherwise, it is seen that by letter dated 09.10.2000 applicant was replaced by another ad-hoc arrangement by asking Shri Ram Singh to take charge from the applicant by appointing another substitute in his place. Law is well settled on this point, ^{also} that respondents cannot replace one ad-hoc employee by another employee. Therefore, applicant could have been replaced only by ^a regularly selected person in case Chief Post Master General had infact not given the approval as alleged in the Counter Affidavit. We are satisfied that there is some communication gap somewhere, therefore, in the given circumstances, we feel ends of justice would be met, by remitting ~~this matter back~~ to the Chief Post Master General i.e. respondent No.1 to look into the matter and in case he had already given approval as is annexed with rejoinder as Annexure RA-I then to pass appropriate orders by giving direction to the appropriate authorities to give compassionate appointment to the applicant atleast now within a period of 2 months from the date of receipt of a copy of this order otherwise pass a reasoned and speaking order explaining as to how applicant was not given compassionate appointment inspite of his approval given by letter dated 22.03.2001. Chief Postmaster General ^{is} also directed to take action against the officers, who are responsible for not following approval given by C.P.M.G. himself. This ofcourse would have no bearing on giving compassionate appointment to the applicant and would be independent of giving compassionate appointment.

7. With the above direction, this O.A. is disposed off with no order as to costs.


Member (A)

shukla/-


Member (J)