

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO-177 OF 2002  
ALLAHABAD THIS THE 7TH DAY OF JULY, 2003

HON'BLE MAJ. GEN. K.K. SRIVASTAVA, MEMBER-A  
HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Manoj Kumar Sharma,  
S/o Sri Ramesh Chandra Sharma,  
R/o Surya Nagar,  
Chau Ki Basti, Line Par,  
City and District-Moradabad. ....Applicant

(By Advocate Shri Raj Singh)

Versus

1. Union of India,  
through Department of Post & Telegraphs,  
Ministry of Communication,  
Government of India,  
New Delhi.
2. Asstt. Superintendent of Post Office (North),  
Sub-Division, Moradabad.
3. Sub Post Master,  
City Post Office,  
Moradabad. ....Respondents

(By Advocate Shri R.C. Joshi)

ORDER

HON'BLE MAJ. GEN. K.K. SRIVASTAVA, MEMBER-A

In this O.A. filed under section 19 of Administrative  
Tribunals Act 1985, the applicant has prayed for setting  
aside the charge report dated 31.01.2002 (Annexure-3) by  
which the applicant handed over the charge of Extra

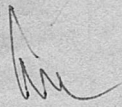


Departmental Stamp Vender (in short E.D.S.V.) Moradabad, City Post Office to one Shri Shyam Gopal on the oral order of respondent. The applicant has prayed for allowing the application to continue on the post by means of appropriate direction.

2. The case of the applicant is that he moved an application on 20.07.2001 for appointment as E.D.S.V. against the post which fell vacant due to demise of Shri Subhash Chandra Sharma who was posted on a clear vacancy. The respondent no.2 passed an order dated 23.07.2001 (Annexure-1) for engaging the applicant as E.D.S.V. on the surety of Shri R.C. Sharma, Sub-Post Master, Town Hall, Moradabad. The applicant worked on the post to the entire satisfaction of higher authorities, yet he has been removed on 31.01.2002. Aggrieved by the action of the respondents the applicant has filed this O.A. which has been contested by the respondents by filing CA.

3. Shri Raj Singh, learned counsel for the applicant submitted that the action of the respondents is highly arbitrary and violative of principles of natural justice. The applicant worked as E.D.S.V. for more than six months and as per the law laid down he could be removed either in the event of withdrawal of surety or appointment of another person on regular basis.

4. Shri G.R. Gupta, learned counsel for the respondents submitted that it was a temporary arrangement. In fact the case of one Smt. Sarvesh widow of Late Shri Subhash Chandra Sharma has been taken up with due recommendation for approval for appointment on compassionate grounds. Since the engagement of the applicant is purely on temporary basis no illegality has





been committed by the respondents in issuing the order dated 28.01.2002 (Annexure-3 to CA) by which Sub-Post Master Moradabad city has been ordered to engage Shri Shyam Gopal on obtaining the surety of some responsible person.

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


6. We do not find any substance in the grounds advanced by the respondents in their counter reply. Taking up the case of widow of Late Shri Subhash Chandra Sharma with Chief Post Master General U.P. for compassionate appointment cannot be a legally sustainable ground for disengaging the applicant. Besides it is not that Smt. Sarvesh widow of Late Shri Subhash Chandra Sharma has been directed to be engaged instead someone else has been engaged. The action of the respondents is in contradiction to the ground taken by them. Once the applicant was engaged, he could not be replaced by another person in normal course. Therefore, the action of the respondent in engaging another person on ad-hoc arrangement cannot stand in the eyes of law and in view of the settled legal position an ad-hoc cannot be replaced by another ad-hoc, the action of the respondents is liable to be set aside.

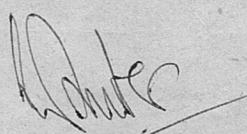
7. In the facts and circumstances, the order of Assistant Sub-Post Office (North) C Moradabad (Annexure-3 to 4) is quashed. R. directed to reinstate the applicant on the Moradabad City Post Office within 15 days of communication of this order. The appointment only by a regularly selected person.



appointee only on receipt of approval from Chief Post Master  
General U.P., Lucknow.

7. There will be no order as to costs.

  
Member.J

  
Member-A

/Neelam/