

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 13th day of MAY 2002

Original Application no. 452 of 2002.

Hon'ble Maj Gen K.K. Srivastava, Member (A)
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Arun Kumar Sahani, S/o late R.S. Ram,
R/o vill Baikunthpur (Khukhundu),
Distt. Deoria.

... Applicant

By Adv : Sri R. Trivedi.

Versus

1. Union of India through Secretary Ministry of Post and Communication, New Delhi.
2. Post Master General, Division Gorakhpur.
3. Senior Supdt. Post, Deoria.
4. Chief Post Master General, Lucknow.
5. Sub-Divisional Inspector Post, Sub Division, Salempur, Deoria.

... Respondents

By Adv : Sri G.R. Gupta

O R D E R

Hon'ble Maj Gen K.K. Srivastava, AM.

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant has challenged the order dated 28.2.2001 (Ann 6) issued by respondent no. 5 and has prayed that the same be quashed and direction be given to the respondents to treat the applicant as appointed on clear vacancy.

2. The facts, in short, giving rise to this OA are that the father of the applicant Sri Ram Suresh was working as Branch Post Master (in short BPM) at Baikunthpur, Branch Post Office, Distt. Deoria. Father of the applicant died in harness and his application for compassionate appointment was forwarded to C.P.M.G, UP Circle, Lucknow. CPMG, UP Circle, Lucknow vide letter dated 17.2.2000 ^{who} approved the appointment of the applicant against clear vacancy. Accordingly the applicant was appointed on the post of Branch Post Master, Khukhundu, by order of respondent no. 3 dated 19.9.2000. The applicant joined as Branch Post Master on 10.10.2000. However, the impugned letter dated 28.2.2001 has been issued by the respondent no. 5, terminating the services of the applicant. Hence this OA.

3. Learned counsel for the applicant submitted that in the appointment letter dated 19.9.2000 the condition was that the services of the applicant would be subject to decision in OA 1397/97, Raj Kumar Gupta Vs. Union of India & Ors. pending before this Tribunal and action of the respondents in issuing conditional appointment specially when the approval of CPMG has been conveyed is illegal and arbitrary. The approval of the CPMG, UP Circle, Lucknow, is for appointment on compassionate ground against a clear vacancy. Respondent no. 3 has deliberately put this to suit his own designs. The impugned order dated 28.2.2001 has been issued by respondent no. 5 who is not competent to issue such instructions. Powers for appointment or termination of an EDBPM lies with Divisional Head ie respondent no. 3. In view of the above learned counsel for the applicant has submitted that the impugned order is illegal and the same be quashed. Learned counsel for the applicant finally submitted

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^{in that h} the applicant also filed a representation before PMG,
Gorakhpur, (resptd no. 2) on 11.6.2001 which ^{in Not h} has been
decided so far.

4. Sri A.M. Tripathi brief holder of Sri G.R. Gupta, learned counsel for the respondents submitted ~~that~~ the action of the respondents is inaccordance with rules. The order has been issued by respondent no. 5 after seeking approval of respondent no.3.

5. Heard learned counsel for the parties and perused records. We have also considered the submission of counsel for parties.

6. This OA has been filed late by one month beyond the period of limitation. The reasons for the delay has been explained in para 4.15. We find that the reasons advanced for the delay are genuine and, therefore, we condone the delay for which learned counsel for the respondents has no objection.

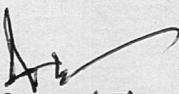
7. From the approval conveyed by CPMG vide letter dated 17.2.2000, it is clear that the applicant is to be appointed as Branch Post Master Baikunthpur on compassionate grounds. It appears from the impugned order dated 28.2.2001 that the services of the applicant have been terminated illegally by appointing a substitute. Neither show cause notice nor reasonable opportunity has been given to the applicant. Such action on the part of respondent no. 5 is highly irregular, ~~and~~ illegal and violative of principles ^{therefore} of natural justice and ~~is~~ liable to be quashed. We would also like to observe that once the appointment of the applicant was approved by CPMG, UP Circle, Lucknow on

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compassionate grounds, respondents no. 3 and 5 have no right to terminate the services of the applicant except in accordance with law. We are satisfied that the applicant is entitled for protection.

8. In view of the above impugned order dated 28.2.2001 (Ann 6) is quashed. Respondent no. 3 is directed to reinstate the applicant as ~~EDBP M, BAIKUNTHPUR~~ ^{BAIKUNTHPUR} within one month from the date this order is filed before him. Respondent no. 2, ie P.M.G. Gorakhpur, is directed to look into the entire issue and take effective steps to avoid recurrence of such arbitrary action by his subordinate officers. We further direct that P.M.G. Gorakhpur after decision in OA 1397 of 1997 will look into totality of the matter and ensure that the applicant's right of appointment on compassionate ground is safe guarded.

9. There shall be no order as to costs.



Member (J)



Member (A)

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