

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.368 OF 2003  
ALLAHABAD THIS THE 26TH DAY OF MAY, 2004

HON'BLE MR. A. K. BHATNAGAR, MEMBER-J  
HON'BLE MR. S. C. CHAUHAN, MEMBER-A

Yogendra Pal Singh,  
son of Sri Chandra Pal Singh,  
R/o Village Noorpur Hatti, P.O. Saidpuri Malichand,  
District-Bijnor.

.....Applicant

( By Advocate Sri B.N. Singh )

Versus

1. Union of India,  
through its Secretary,  
Ministry of Communication (P&T),  
New Delhi.

2. The Superintendent of Post Office,  
Bijnor Division Bijnor.

3. The Assistant Superintendent of Post Office,  
Sub Division Dhampur.

.....Respondents

( By Advocate Shri R.C. Joshi )

ORDER

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

By this O.A. filed under section 19 of Administrative Tribunals Act 1985, the applicant has challenged the order dated 4.1.2003 and 4.2.2003 passed by respondent no.3 through which the services of the applicant was terminated on 04.02.2003 without giving any reason and opportunity.

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He has further prayed for a direction to set aside the order dated 4.1.2003 and 4.2.2003 passed by respondent no.3 (Annexure A-1) and a direction to respondent no.3 to continue on the post of E.D.M.C. Akhera till the regular selection is made. He has also prayed for a direction to respondent no.3 to regularise the service of the applicant on the said post.

2. The brief facts of the case as per applicant are that he was initially appointed on the post of EDDA Saidpur Mahichand Post Office District Begrajpur on 24.08.1993 and thereafter the respondents permitted him to continue on the post of EDMC at various places including Begrajpur and Akhera by giving artifical break in service. The applicant is now serving as EDMC, Akhera.

3. The learned counsel for the applicant submitted that the action of the respondents in removing the applicant by impugned order dated 04.01.2003 and 04.02,2003 is against the Principles of Natural Justice as it has been passed without giving any show cause notice to the applicant.

4. The learned counsel for the applicant also submitted that the applicant has been working with the entire satisfaction of the respondents and there is no complaint whatsoever against him.

5. The learned counsel for the applicant further submitted that the applicant has been working for more than three years except with some artifical break and no notification for filling the post on regular basis has been issued by the department so far.

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6. Resisting the claim of the applicant learned counsel for the respondents filed the counter affidavit. The learned counsel for the respondents submitted that the post of EDDA/MC fell vacant at Akhera, Branch Office on 23.11.2000 due to the death of permanent incumbent Shri Phatechand. His son Vinod Kumar applied for the post on compassionate grounds which has not yet been finalised. So the post was kept vacant and the applicant is working as substitute on the vacant post. The applicant has worked only on short intervals as a substitute. He drew our attention <sup>to</sup> para 12 of the CA in which the total working days of the applicant as a substitute has been shown datewise.

7. The learned counsel for the respondents finally submitted that there is no illegality in the orders passed by the respondents.

8. We have heard counsel for the parties and perused the pleadings as well.

9. Admittedly, the applicant is working as a substitute and he has been permitted to work by the respondents after some artificial breaks. We have gone through paragraph 8,9, 10,11,& 12 of the CA which are in contradiction to para 7 regarding the working period of the applicant. It is also an admitted fact that no notification for filling up the post on regular basis has been made by the department. From perusal of the impugned order Annexure A-1 it transpires that the applicant has been directed to be removed and the order has been passed to make another adhoc arrangement which certainly is not sustainable in the eyes of law. The

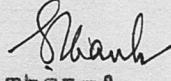
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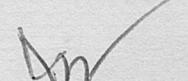
legal position <sup>in</sup> ~~in~~ this regard is well settled that the substitute/adhoc cannot be replaced by another substitute/adhoc.

10. The learned counsel for the applicant submitted that same controversy has already been resolved on O.A. No.1232/03 decided on 16.10.2003 and O.A. No.1084/03 decided on 11.09.2003 and the case of the applicant is fully covered by these orders, <sup>the</sup> ~~the~~ copies of which have been filed alongwith the M.A. No.2447/04.

11. <sup>by agreement</sup> In the facts and circumstances and in respectfull ~~of~~ <sup>of</sup> submission with the orders passed in O.A. No.1084/03 and O.A. No.1232/03, the O.A. is partly allowed. The order dated 04.01.2003 and 04.02.2003 is quashed. The respondents are directed not to terminate the service of the applicant till a regularly selected candidate is available for the post. We have also gone through the interim order passed in this O.A. on 09.04.2003 by which the applicant <sup>is</sup> ~~is~~ <sup>by</sup> continuing to work on this post till now.

12. In view of the above, the O.A. stands disposed off. No costs.

  
Member-A

  
Member-J

/ Neelam/