

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1083 OF 2003  
ALLAHABAD THIS THE 11TH DAY OF SEPTEMBER, 2003

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

Anand Kumar Tripathi,  
S/o Late Ram Ajor Tripathi,  
R/o Village Saltawa, P.O.-Saltawa,  
District-Basti. ....Applicant

(By Advocate Shri R. Trivedi & Shri V. Srivastava)

Versus

1. Union of India,  
through Secretary,  
Ministry of Communication,  
Department of Post, Dak Bhawan,  
New Delhi.
2. Post Master General,  
Gorakhpur Division,  
Gorakhpur.
3. Superintendent of Post Offices,  
Basti Division, Basti.
4. Sub-Divisional Inspector of Post Offices,  
Dumeriya Ganj,  
Siddharth Nagar. ....Respondents

( By Advocate Shri G.R. Gupta )

O R D E R

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 quashing

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the impugned order dated 08.09.2003 (Annexure A-4) and has prayed for direction to respondents to regularise the applicant on the post of GDS/EDMC Chaukawa, District-Basti, as he has rendered more than 2½ years service on the said post.


2. The grievance of the applicant is that he was initially appointed on the post of EDMP Chaukawa, District-Basti on 30.03.2001 and thereafter the respondents by giving artificial break in service permitted him to continue on the same post at several places till date yet they are removing the applicant by the impugned order dated 08.09.2003 without giving any show cause.

3. Shri R. Trivedi, learned counsel for the applicant submitted that the applicant has been working to the entire satisfaction of the respondents, there has been no complaint whatsoever about the applicant's working and, therefore, removing the applicant after he has rendered more than <sup>two</sup>~~three~~ years service is arbitrary and illegal.

4. The learned counsel for the applicant further submitted that there has been no notification for filling the post on regular basis.

5. The learned counsel for the respondents prayed for time for filing CA. The prayer of the respondent's counsel is rejected as this case can be decided at the admission stage itself.

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






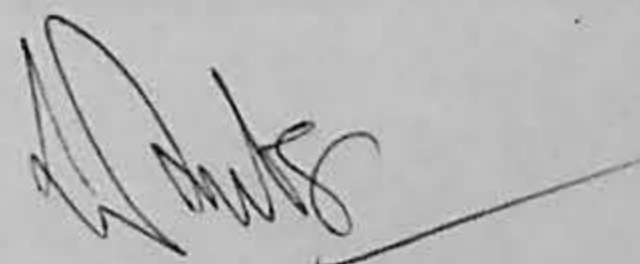
7. By impugned order the EDBPM has been directed also to perform the duties of the applicant in addition to his own work. The perusal of the impugned order leaves no doubt that the applicant is <sup>not</sup> being dis-engaged by a regularly selected candidates. The legal position is well settled that a substitute/Adhoc cannot be replaced by another substitute/Adhoc and, therefore, the impugned order dated 08.09.2003 cannot sustain in the eyes of law.

8. We would further like to observe that the applicant is working as a substitute and, therefore, no right accrues to him yet once he was engaged, his services can be terminated only in accordance with law.

9. In the facts and circumstances and our aforesaid observations, the O.A. is partly allowed. The order dated 08.09.2003 is quashed. The respondents are directed not to terminate the services of the applicant till a regularly selected candidate is available for the post.

10. With the above directions, the O.A. is disposed of at the admission stage itself with no order as to costs.

  
Member-J

  
Member-A

/Neelam/