

CENTRAL ADMINISTRATIVE TRIBUNAL OUCKNOW BENCH LUCKNOW
ORIGINAL APPLICATION NO: 386/2003.

this, the 11th day of February 2004.

HON'BLE SMT. MEERA CHHIBBER MEMBER(J)
HON'BLE SHRI S.P. ARYA MEMBER(A)

Nagendra Bahadur Singh aged about 43 years s/o Sri
Visheshwar Singh Ex. EDSPM Jalalpur Dhai District
Raebareli.

.....Applicant.

BY Advocate Shri R.S. Gupta.

VERSUS

1. Union of India through the Secretary Department of Post Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P. Lucknow.
3. Superintendent of Post Offices, Raebareli.

...Respondents.

BY Advocate Shri P.K. Singh.

ORDER(ORAL)

BY SMT. MEERA CHHIBBER MEMBER(J)

By this O.A., the applicant has sought following relief:-

"(i) That this Hon'ble Tribunal may kindly be pleased to quash the portion as contained in para 4 and 5 of



order dated 26.5.2003 terminating services of applicant without providing alternate employment as contained in Annexure No. 1 and direct the opposite parties to appoint the applicant as EDBPM Pakharauli District Raebareli lying vacant and treat the applicant in continuous service for the purpose of promotion, retiral benefits etc.

(ii) Direct opposite parties to pay salary from 29.5.2003 till his re-employment as EDBPM pakharauli or any where else.

(iii) Allow cost of O.A."

2. The applicant has submitted that he was provisionally appointed as EDSPM Jalalpur Dhai District Raebareli on 18.9.1982 but after working ^{for} about more than 20 years continuously his services were terminated on 26.5.2003 without giving him any alternative employment. Charge was taken from him on 29.5.2003. Therefore, being aggrieved he gave representations to the S. P.Os Raibareli on 3.6.2003 and 10.6.2003. ^{but the same was not decided.} B He had no other option but to file the present O.A.

3. Respondents have filed their counter affidavit in which they have submitted that applicant was appointed ~~as~~ initially on the post of EDSPM Jalalpur Dhai District Raebareli provisionally as the said post was vacant on account of the fact that services of one Shri Kalika Prasad(i.e. regular incumbent of the said post) had been put off, due to pendency of disciplinary proceedings initiated against him. He was later on dismissed from service, therefore applicant was allowed to continue on the said post. Subsequently, said Shri Kalika Prasad filed an Original Application No. 385/95 which was partly allowed by this Tribunal vide its order dated 14.11.2002



and the order of dismissal from service passed against Shri Kalika Prasad was set aside by this Tribunal and the department was directed to reinstate Sri Kalika Prasad in Service. The learned counsel for the respondents have stated that in compliance of the Judgment passed by this Tribunal, Sri Kalika Prasad has been reinstated in service vide order dated 26.5.2003. By ~~Means~~ of the same order dated 26.5.2003, services of the applicant have been terminated from the post of EDSPM Jalanpur Dhai, Raebareli as his appointment was provisional and the regular incumbent of the said post(I.e.Sri Kalika Prasad) had joined against the same post. They have further explained that competent authority has considered the representation of the applicant and have given him appointment on the post of GDS BPM Pakharauli in district Raebareli by order dated 12.12.2003 copy of which has been annexed as Annexure No. C-1. They have thus submitted that since the applicant has been given alternative appointment, this G.A. has become infructuous. The same may be dismissed.

5. Counsel for the applicant submitted that since applicant had worked about more than 20 years, he could not have been terminated abruptly and for the period he was disengaged, applicant should be given his salary also.

5. We have heard both the counsel for the parties and seen that applicant's initial appointment was only provisional which does not give him any right to continue on the post of EDSPM Jalanpur Dhai, Raebareli especially when the original incumbent of the said post was directed to be reinstated by the Tribunal. In such circumstances it was but natural for the respondents to disengage the applicant. The only provision which has been shown to us by the applicant's counsel in such circumstances is that since applicant had worked 20 years he should have been considered for alternative appointment.



The said alternative appointment has already been given to the applicant. If for some time, the applicant could not be given alternative appointment, we do not think he can be given salary for the said intervening period. However, since the applicant had already put in more than than 20 years of service, he may give a representation to the authority concerned to consider condoning this period for all other purposes. In case, the applicant gives such a representation, and in case, he is entitled for any exgratia payment after retirement on account of his length of service, the authority shall decide the same by passing a reasoned and speaking order in accordance with the rules. Since his main grievance has already been looked into by the respondents and he has already been given alternative appointment, this O.A. has become infructuous. The same is accordingly dismissed having become infructuous. No costs.

20/7/66
MEMBER (A)

v

B
MEMBER (J)