

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 121 of 1990

## Versus

Union of India and 3 others . . . . . Respondents

Hon'ble Mr. M. K. Obayya, Member (A)

Hon'ble Mr. S.N. Prasad, Member (J)

( Hon'ble Mr. S.N. Prasad, Member (J) )

The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for quashing the impugned order of termination dated 29.9.1989 (Annexure-1) on the ground that the impugned order passed by the respondent no. 4 is illegal and invalid in as much as the respondent no. 4 is not competent authority to pass the impugned order. It has further been stated that after working as Extra Duty employee for more than 15 years, the applicant was selected and was appointed on the post of Mail man as per appointment letter dated 24.1.1989 (Annexure-2) and subsequently, the respondent no. 4 passed another appointment order dated 24.1.1989 on the basis of which the applicant joined his duties (Vide Annexure-3) and had been working satisfactorily, but due to ~~injury~~ caused to him, the applicant proceeded on medical leave on 16.9.89 upto 30.9.89 and on 1.10.1989 and 2.10.89 due to Sunday and Gandhi Jayanti, the applicant availed holiday and on 3.10.89 when the applicant went to join his duties, he came to know that his services have been terminated on 29.9.89 prior to the date of his sanction of leave. It has further been stated that the services of

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the applicant have been terminated by the respondent no. 4 treating him as temporary employee under rule 5(i) of CCS ~~Temporary Service Rules 1965~~ temporary employee Rules 1965, but the termination order is quite illegal as the status of the applicant is to hold the post in the department is that of quasi-permanent status and the services of the applicant cannot be terminated without holding enquiry and as such the impugned termination order be quashed and the applicant be re-instated on the post of Mail man alongwith all service benefits including pay alongwith seniority etc. on the said post.

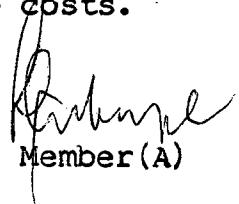
2. The respondents in their counter-affidavit have inter-alia, contended that during the period of his joining till 15.9.89 ~~in a continuous~~ period of 212 days; the applicant remained absent without prior information dislocating government's works of extreme public utility and as such the purpose for which the applicant was appointed as temporary Mail man was frustrated and as such the services of the applicant being temporary government servant were terminated under rule 5(i) of CCS (Temporary service) Rules, 1965. It has further been contended that the respondent no. 4 is the competent authority by whom the impugned termination order (Annexure-1) was passed, as the appointment letter was issued by this very respondent no. 4 and as such the impugned termination order was passed validly, properly and there is no illegality therein, as the impugned order was passed with one month notice, which was served on the home address of the applicant on 4.10.89. Thus, in view of the above circumstances the applicant is not entitled to any relief.

3. The controversy in this case appears to be about the absence from duty of the applicant. The applicants' contention is that he has applied for medical leave ~~and was not sanctioned~~ <sup>222</sup> ~~and was not sanctioned~~. The respondents however, denied

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the contention of the applicant and according to them this is the case of unauthorised absence. The applicant had preferred an appeal on 8.11.1989, but not to the proper authorities and as such he was directed by respondent no. 3 to file proper appeal. It would appear that the applicant has preferred an appeal on 1.1.1990 (Annexure-6), but the same has not been disposed of. In these circumstances, we are of the view, the application can be disposed of with a suitable direction to the respondents to dispose of the appeal filed by the applicant taking into consideration all the pleas raised by the applicant in his appeal. The appellate order should be a speaking order and if the copy of the appeal is not readily available with the department, the same may be obtained from the applicant and expedite the case. The applicant also may furnish a copy of the appeal dated 1.1.1990 (Annexure-6) within a period of 15 days from the date of communication of this order and thereafter the appeal may be disposed of within a period of three months by the appellate authority/the member (Administration) Postal Services, Post Board, New Delhi. The application is disposed of as above with no order as to costs.

  
Member (J) 30.3.93

  
Member (A)

Lucknow Dated: 30.3.1993

(RKA)