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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 306/90

Superintendent of Post  
Offices, Lucknow Division  
Lucknow

Applicant

versus

Union of India & others

Respondents.

Shri V.K.Chaudhary Counsel for Applicant.  
Shri T.N. Gupta Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C.Srivastava, V.C.  
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C.Srivastava, V.C.)

The applicant has approached this Tribunal against the ex parte award given by the Presiding officer labour court. It appears that the respondents approached the labour Court with the prayer that the applicant's services have been illegally terminated. Union of India put in appearance before the Presiding officer, Labour court and submitted ~~that~~ the written statement and was stated that the applicant (now respondent No. 3) / never appointed by the department but worked as a substitute on the security and responsibility of regular extra departmental agent Sri Ram Plat during the following period:

- i) From 16.7.82 to 30.10.82
- ii) From 10.11.82 to 10.5.83

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iii) From 1.6.83 to 31.1.84

iv) From 13.2.84 to 31.5.84

v) From 9.10.84 to 20.12.84

vi) From 22.12.84 to 30.4.85

(now respondent No. 3)  
and thereafter the applicant/also worked from 1.5.85  
to 23.5.85 as a substitute of Shri Triveni Prasad Yadav  
on his responsibility. He was never appointed regularly  
in the department and as such there was no question  
of retrenchment and he cannot be treated a regular  
employee and the appointments are only made through the  
agency of Employment Exchange and plea of jurisdiction  
has been raised. No appearance was put in by the  
respondents and ex parte award was passed and the  
presiding officer did not look into the written  
statement and he considered the question of jurisdiction  
as to whether in the matter of E.D.B.P.Ms he has any  
jurisdiction or not and whether it could be said an  
Industrial Dispute and he even went to the extent of  
saying that provisions of section 25 F of the Industrial  
Disputes Act have not been complied with and the  
applicant(respondent No. 3 ) was entitled to full back  
wages. Obviously it was a matter which should not have  
been entertained. As a result of the award the respondent  
No. 3 has been taken back in service. The award was that  
the respondent was to be taken back in service as a

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substitute and nothing more. The respondent No. 3 has got no right to get back wages. In view of the fact that the respondent No. 3 is working, the award is partially quashed as far as back wages are concerned and the respondent <sup>No. 3</sup> will be paid as substitute and not more i.e. in the capacity in which he is engaged. With this modification the application is partially allowed. However, in view of the fact that the respondent No. 3 is working, his case for regular appointment can be considered if the cases of other substitutes who entered the department after him have been considered and even otherwise his case can now be considered and there is no bar.

2. The application is disposed of with the above observations. No order as to costs.

  
Adm. Member.

  
Vice Chairman.

Shakeel/-

Lucknow: Dated 17.12.92.