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Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH AT LUCKNOW.

Registration (O.A.) No. 15 of 1990 (L)

Nirdesh Kumar Srivastava Applicant.

Versus

Union of India & others Respondents.

Hon'ble Justice K. Nath, V.C.

Hon'ble K.J. Raman, A.M.

This application, under Section 19 of the Administrative Tribunals Act, 1985, is for quashing the order dated 4.1.1990 (Annexure 'A-5') by which the applicant's services as ED BPM, Sarva Jalalpur were terminated with immediate effect.

2. The applicant was appointed on 30.8.1988 by Annexure 'A-1' after the usual process of selection on being sponsored by the Employment Exchange. He joined the post on 13.9.1988. According to the counter affidavit, a complaint was lodged by one Bhagauti Singh to the Director of Postal Services, Lucknow Region, Lucknow and after investigation, into the complaint, the Director ordered on 22.12.1989 that the appointment of the applicant may be cancelled and Bhagauti Singh may be appointed instead. It is in pursuance of these directions that the impugned termination order dated 4.1.90 was passed.

3. It is admitted that before termination of the services of the applicant no opportunity to show-cause was given to him. A similar matter came up before us today in O.A. No. 6 of 1990, Dinesh Prasad Yadava v. Union of India & others. We have examined ^{the} question of necessity of giving an opportunity to show-cause. The views recorded by us in that case (O.A. No. 6 of 1990)

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are ~~equally~~ ^{equally} applicable to the present case and, therefore, for reasons recorded therein we hold that the order of termination of the services of the applicant must be quashed.

4. The learned counsel for the parties indicate that the applicant, while holding the post, proceeded on leave and placed his substitute in his place and that his substitute is still working. It is not necessary to go into the legal aspects of the effect of termination on substitutes, but since admittedly Bhagauti Singh, who was required to be appointed, has not been appointed, there should be no difficulty in the applicant resuming his duties on the post of ED BPM in question.

5. In view of above, the petition is allowed and the impugned order of termination dated 4.1.1990, contained in Annexure 'A-5', is quashed. The applicant shall be allowed to work on the post in question with effect from the date he reports for duty. It will be, however, open to the respondents to re-examine the question in accordance with law and rules after giving an opportunity to the applicant, if they so desire.

(Signature)

MEMBER (A)

(Signature)

VICE-CHAIRMAN.

Dated: January 29, 1990.

PG.