

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. No.774/2018
MA No.844/2018**

New Delhi this the 19th day of July, 2019

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

Smt. Indro Devi
W/o Late Shri Mangal Singh
Aged about 40 years,
Group-D,
Department of Posts,
Designation – Mali
Nature of Grievance : Termination
R/o Gali No.17, Wazirabad,
Near Jagatpur Extension,
Delhi-110084. ..Applicant

(By Advocate: Mrs. Meenu Mainee for Mrs. Rani Chhabra)

Versus

1. Govt. of India
Through its Director General,
Ministry of Communication,
Department of Posts,
Sansad Marg, New Delhi.
2. Postmaster General,
Bareilly, UP.
3. Chief Postmaster General,
Lucknow, UP.
4. Senior Superintendent of Post Offices
Saharanpur Division,
Saharanpur-247001, UP. ..Respondents

(By Advocates: Mr. Vijendra Singh and Mr. KK Sharma)

ORDER (ORAL)

The applicant has filed this OA praying for the following
reliefs:-

*(a) Quash the letter/order A/Mali dated
10.11.2017 issued by Senior Superintendent of

Post Offices, Saharanpur, Respondent No.4 as well as the Order/Letter No.RPB/Rectt.-16/CA/10 dated 31.10.2017 issued by respondent No.3 Postmaster General, Bareilly terminating the services of the applicant;

(b) direct the respondents to take back the applicant as Mali and regularise her services on the post of Mali due to her continuous work for 17 years; and

(c) pass such other or further order/s as Your Lordships may deem fit and proper”.

2. It is the case of the applicant that she had made a representation dated 31.07.2017 to the respondents for regularizing her service on the post of Mali as she had continuously been working as such on part time basis for more than 17 years after the demise of her husband who had also worked as part time Mali from 1982 till 1999. But instead of regularizing her services, she has been terminated without any show cause notice vide order dated 31.10.2017 informing that she is unable to take care of the big garden area of Divisional Office, Saharanpur and had also erroneously passed the impugned order dated 10.11.2017 on the ground that there is no provisions for compassionate appointment for the dependents of part time casual labourer. The applicant has alleged that she had never applied for appointment on compassionate grounds and had only requested for regularizing her services by taking into account her 17 years services on daily wages basis. Being aggrieved with the inaction of the respondents, she has filed the present OA.

3. The respondents have denied the aforesaid submissions of the applicant in their reply and have stated that there was no regular post of Mali in the postal department and sometimes only, on the daily wages basis, workman was engaged to look after the flowers and plants in the garden. They have contended that the applicant was never given appointment on the post of Mali and they had only given her part time work in the garden and that work was not found satisfactory, she was disengaged and as per rule, there is no requirement to give any show cause notice to a casual labourer before terminating her services. Hence, the respondents have prayed for dismissal of the OA.

4. After hearing the arguments of the parties and after perusing the record, it becomes clear that the deceased husband of the applicant of this OA was never an employee and only a part time casual labour as shown from Annexure A-1 order dated 10.11.2017 which reads as under:-

“Sub: Regarding regular appointment on the post of part time Mali.

Ref: Your representation dated zero.

We have received your representation on the above said subject in which you have written regarding the regular appointment on compassionate ground after death of your husband Late Sh. Mangal Singh, former part time Mali. In relation to this, we bring to your notice that there is no provision of compassionate appointment for dependants of part time casual labourer.”

And as a legal heir, the applicant has never filed any OA, seeking regularization of services of her deceased husband. Further, the respondents have been able to show that there was no post of Mali in their organization and as per letter dated 29.05.2000, the Office of Post Master General, Dehradun had permitted the respondent to engage a workman at the minimum rate to look after the flowers and plants in the garden area of Sub. Divisional office. Hence, they are able to show that after the said permission, the applicant of this OA was engaged at the minimum wages as fixed by the Office of the Labour Commissioner from time to time. Hence, the applicant was only engaged as a workman at the minimum wages and when the respondents did not find her work satisfactory, no further work was given to her. The respondents have also been able to show that in the absence of the post of Mali, there was no question of even engaging the applicant against a non-existing post. Hence, we do not find any illegality in the action of the respondents in terminating the services of the applicant without issue of show cause notice. Accordingly, the OA is dismissed. Pending MA No.844/2018 is also dismissed. No order as to costs.

(NITA CHOWDHURY)
MEMBER (A)

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