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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.829/2002

New Delhi, this the 23rd May, 2003

Hon'ble Shri Kuldip Singh, Member(A)

Geeta Vyas
Vill. PO Banjarawala
Dehradun .. Applicant
(Shri M.K.Bhardwaj, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Communication and Posts
Dak Bhawan, New Delhi
2. Post Master General
Dehradu Circle, Dehradun
3. Sr. Superintendent of Post Offices
Dehradun Circle, Dehradun .. Respondents
(Shri D.S.Jagotra, Advocate)

ORDER(oral)

Both parties heard. Applicant has assailed the notice dated 7.3.2002 by which the department has proposed to terminate her services w.e.f. 15.4.2002.

2. The facts in brief are that the applicant was appointed as ED-BPM in Banjarawala Post Office w.e.f. 15.2.2000. Her appointment was reviewed by the PMG, Dehradun who directed the appointing authority to cancel her appointment as she did not have independent source of income or adequate income of her own which is one of the essential conditions for appointment to the said post. Accordingly, she was issued order dated 21.11.2000 terminating her services under Rule 6(a) & (b) of P&T EDA (Conduct & Service) Rules, 1964. She filed OA No.1892/2000 which was disposed of by order dated 18.10.2001 with the following directions:

[Signature]

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"7. In the particular facts and circumstances of this case which shall not be treated as a precedent, we dispose of this OA with a direction to the appointing authority to give applicant a show cause notice further to the impugned notice dated 21.11.2000, give her 6 weeks time from the date of its receipt to submit a reply supported by such materials as she has in her possession and on receipt of the reply dispose of the same in accordance with rules and instructions, under intimation to the applicant. Till then applicant should not be disturbed from her present post as EDBPM, Banjarawala. If applicant, however, fails to submit any reply to the show cause within the time allowed, it will be open to respondents to proceed in accordance with rules and instructions."

In pursuance to the aforesaid directions, a fresh show cause notice was issued to the applicant on 4.1.2002 as to why her services should not be terminated. The competent authority thereafter passed the impugned order dated 7.3.2002. Applicant has challenged this order on the grounds that the same is in violation of the Rules and also against the ruling of the Supreme Court in the case of Gopal Bandhu Biswal holding that appointment of EDBPM cannot be reviewed by the higher authorities. It was further contended that the termination notice has been issued on the same grounds which have already been dealt with by the Tribunal and that applicant had already submitted her income certificate on 16.8.2000.

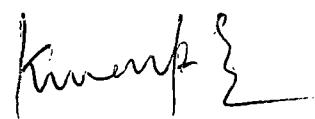
3. Respondents have contested the OA. In their reply they have pleaded that while applying for the post, applicant had left the column of monthly income blank and she did not submit any certificate to the effect of income of her own from the Revenue authority as per the requirement but she filed an affidavit from her father showing that she was dependent on his income. She did not full the condition for appointment to the post in



question and notice of termination was issued according to the terms and conditions as enumerated in the appointment letter. 20

4. The learned counsel for the applicant has contended that higher authorities could not have reviewed the appointment order. In support of his contention, he has relied upon the judgement of the Patna Bench of the Tribunal dated 4.2.2000 in OA 194/1994 with OA 505/1994.

5. As per the directions given in the earlier OA, applicant was given 5 weeks time to submit reply supported by such documents that she had in possession. Applicant gave her reply on 13.2.2002 alongwith a copy of income certificate issued by the Tehsildar, Dehradun. However, Shri Jagotra has contended that this certificate has already been considered and therefore does not require any fresh consideration. However, I find that the case of the applicant has not been decided strictly in accordance with the directions given in Tribunal's order dated 18.10.2001. In view of this position, the present OA is disposed of with the direction to the respondents to reconsider the case of the applicant strictly in accordance with rules and in terms of the directions given by the Tribunal vide order dated 18.10.2001. Till a final decision is taken in accordance with the rules and communicated to her, applicant's services shall not be terminated.


(Kuldip Singh)
Member (A)