

(17)

Central Administrative Tribunal  
Principal Bench

O.A. No. 1577 of 1997  
13<sup>th</sup> APRIL 1999  
New Delhi, dated this the \_\_\_\_\_

Hon'ble Mr. S.R. Adige, Vice Chairman (A)  
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Shri Abdul Salim  
S/o Shri Kharati,  
R/o Vill. & P.O. Puhana,  
Ward No. 10, in front of Idgah,  
Dist. Gurgaon (Haryana) ... Respondents

(By Advocate: Shri V.P. Sharma)

Versus

1. Union of India through the  
D.G., Dept. of Post,  
Dak Bhawan, New Delhi.
2. The Post Master General,  
Haryana Circle,  
Ambala, Haryana
3. The Sr. Sudpt. of Post Offices,  
Gurgaon Div.  
Gurgaon, Haryana.
4. Sub-Divl. Inspector Post Office,  
Gurgaon East,  
Gurgaon, Haryana. ... Respondents

(By Advocate: Shri K.R. Sachdeva)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' orders dated 27.10.95 (Ann. A-1) terminating his service and the appellate orders dated 8.10.96 (Ann. A-2) rejecting the appeal.

2. Applicant was engaged as a part time chowkidar in Punhana P.O. under Gurgaon Division w.e.f. 1.10.88. The Sub-Post Master, Punhana was required to keep cash and other valuables of Punhana P.O. in Punhana P.S. in an iron safe embedded there but on 5.10.94 the SPM failed to

keep the cash and other valuables in Punhana P.S. and instead kept them in an iron safe in the Post office itself with applicant's knowledge. On the night of 5/6.10.94 at around 11.36 p.m. applicant reported the theft in the Post Office to the SPM who in turn reported the case to the Police, who arrested applicant and detected a theft of Rs. 97,963/-.

3. As there were doubts regarding applicant's integrity during enquiries conducted by the authorities he was served a show cause notice on 5.6.95 allowing him opportunity to make his defence. Applicant submitted his defence statement dated 13.10.95. After consideration of the same, it was rejected and termination of applicant's services was ordered vide impugned order dated 27.10.95. Applicant submitted an appeal on 28.10.95 to Respondent No.4. Meanwhile he also filed O.A. No. 1080/96, upon which the Principal Bench by order dated 13.8.96 directed that the aforesaid appeal submitted by applicant to R-4 be treated as an appeal submitted by him to R-2 and be disposed of by a reasoned order within two months of receipt of the order. The appeal was disposed of by impugned order dated 8.10.96 against which this O.A. has been filed.

4. Applicant's counsel Shri Sharma has asserted that in terms of the Tribunal's order dated 19.1.94 in O.A. No. 484/92 (copy taken on record) applicant's services could have been

terminated only after a regular inquiry in which he was given an opportunity to participate and defend himself. Shri Sharma has urged that as no regular departmental inquiry was conducted, the impugned orders are illegal.

5. Secondly Shri Sharma has urged that in terms of D.G. P&T's letter dated 19.4.79 referred to below Rule 6(3) EDA (Conduct & Services) Rules initiation of regular departmental proceedings is necessary if specific irregularities come to surface in view of the safeguards afforded to ED Agents under Article 311 of the Constitution and applicant is also covered by these instructions.

6. Shri Sachdeva on the other hand has urged that pursuant to the aforesaid order dated 19.1.94 in O.A. No. 484/92 respondents have issued circular dated 23.12.94 (copy also taken on record) regarding engagement of casual labourers, in which it has been laid down that in the absence of any statutory rules on the subject, the principles of natural justice would come into play and these principles would be deemed to have been satisfied in cases like these where a show cause notice is issued to the casual labourer and he is allowed a reasonable opportunity of defending himself before terminating his services. Shri Sachdeva has urged that as the aforementioned was complied with, there is no infirmity in the impugned order.

7. On Shri Sharma's second ground, Shri Sachdeva has stated that applicant being only a part time chowkidar and not an EDA, he is not covered by the D.G., P&T's letter dated 19.4.79.

8. We have considered the matter carefully. After the order dated 19.1.94 in O.A. No. 484/92 respondents have issued circular dated 23.12.94 which applicant has not impugned. There is no doubt that before issue of the impugned order, applicant was issued a show cause notice and he was allowed a reasonable opportunity to defend himself. Hence the requirements of Circular dated 23.12.94 have been satisfied. Applicant was a part time chowkidar and nothing has been shown to establish that a regular departmental enquiry in accordance with the provisions of the CCS (CCA) Rules under Article 311 of the Constitution has to be concluded before terminating the services of a part time chowkidar. Applicant being one such part time chowkidar, the contents of D.G. P&T's letter dated 19.4.79 (Supra) would not be applicable to him, he not being an E.D. Agent.

9. In the result the O.A. warrants no interference. It is dismissed. No costs.

*Lakshmi Swaminathan*

(Mrs. Lakshmi Swaminathan)  
Member (J)

*Adige*

(S. R. Adige)  
Vice Chairman (A)