

13
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH,
NEW DELHI

OA NO. 43 OF 2000

New Delhi this the 20th day of October, 2000.
Hon'ble Shri V.K.Majotra, Member (A)

Pradeep Debas,
S/o Shri Mange Ram
R/o Village and Post Office Kanjhawla,
New Delhi - 110081.

...Applicant...

(By Shri Vinod Sehrawat,
learned counsel for applicant.)

VERSUS

1. Union of India,
Ministry of Communication,
Through Secretary Director General(P)
And Chairman Postal Services,
New Delhi - 1100 01.
2. Senior Supt. of Post Offices,
New Delhi, Central Division,
Meghdoot Bhawan,
New Delhi - 1100 01.
3. Assistant Senior Suptd.of Post Offices,
New Delhi, Central Division,
Meghdoot Bhawan,
New Delhi - 1100 01.
4. Chief Post Master,
Head Office, New Delhi - 1100 01.
5. Sub-Post Master,
Patiala House P.O.,
New Delhi - 1100 01.Respondents.

(By Shri K.K.Patel, learned counsel
for respondents.)

O R D E R

The applicant has challenged the order dated 24.12.1999 passed by the Assistant Superintendent of Post terminating services of the applicant (Annex. A-1(a). The applicant was appointed as EDS/V by Memo. dated 31.12.98. According to him, he was sponsored by Directorate of Employment and had submitted the mark-sheets and certificates of class VIII & IX alongwith the certificate of Prathama issued by Hindi

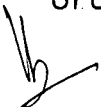
[Handwritten signature]

Sahitya Sammelan, Allahabad. According to him, he discharged his duties with full satisfaction of his senior officers. On 23.12.1999, suddenly he was asked to resign immediately without stating any reason. His representation dated 31.12.1999 went unresponded. The applicant has stated that since the order dated 24.12.1999 was not accompanied by any cheque regarding his pay as required by Rule 6(b) of EDA Conduct as Service Rules, the impugned order is void abinitio. The applicant has sought quashing of the impugned order being violative of the principles of natural justice.

2. The respondents in their counter have stated that the applicant was appointed subject to verification of educational qualifications and other papers submitted by him. He was given preference on account of his matriculation qualification but later on, it was found that Hindi Sahitya Sammelan of Allahabad is not a recognised institution to conduct examination equivalent to the standard of matriculation. Thus, as the applicant did not fulfil the prescribed qualifications, his services were terminated by the competent authority. According to the respondents, the order of termination of applicant's services was sent alongwith the order (cheque) of payment of pay and allowances under Rule 6(b) ibid.

3. We have heard the learned counsel of both sides and perused the material available on record.

4. The learned counsel of the applicant contended that the principles of natural justice were not followed by the respondents in issuing the impugned order. He further stated that he had submitted copies



(S)

of mark-sheets and certificates of class 8th & 9th and submitted that he had passed the 9th standard but failed in the 10th standard. He had also submitted the certificate of Prathama issued by Hindi Sahitya Sammelan, Allahabad as an additional qualification in support of his claim. According to the applicant's counsel Prathama may or may not be equivalent to matriculation, his basic claim to the post EDS/V is based on his qualification of 8th standard. According to him departmental instructions on the subject state that though preference may be given to the candidates with matriculation qualification, no weightage can be given for any qualification higher than matriculation. The applicant's counsel maintained that he had not misrepresented on his qualifications. He had submitted all facts along with documents to the concerned authorities. Drawing the attention to letter dated 22/2/95 of Department of Posts, (Annex.- 12), the learned counsel of the applicant stated that vide above circular the Department of Posts had clarified that the provisions of Rule 6 of the P&T ED Agents (Conduct and Service) Rules 1964 may be invoked only when the services are proposed to be terminated for reasons other than specific acts of misconduct and when such action becomes necessary for specific acts of misconduct, the procedure laid down in Rule 8 ibid should be followed. Thus his services could not have been terminated under Rule 6.

5. The learned counsel of the respondents contended that the applicant's services have been terminated under Rule 6(b) ibid as he is a non matriculate and preference was accorded to other candidates having matriculation qualification under

Wb

HB

the rules.

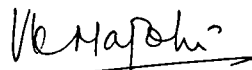
6. The instructions contained in Annexe R-2 relating to educational qualifications for EDS/V prescribe 8th standard as the eligibility for the post. But preference may be given to the candidates with Matriculation qualifications and no weightage should be given for any qualification higher than matriculation i.e. upto matriculation weightage can be accorded.

7. As per Annexure R-4, Hindi Sahitya Sammelan has been accorded recognition for conducting examination in Hindi subject even though it may be preparing candidates for other subjects in addition to Hindi. Though the applicant is 'Prathama' from Hindi Sahitya Sammelan, he cannot be said to have qualifications equivalent to Matriculation. Thus he has VIII class qualifications only. In the present case certain other candidates who were Matriculates have been given preference as compared to the applicant, which is in accordance with instructions R-2. Be that as it may, the question is whether the services of the applicant can be terminated under Rule 6. The learned counsel of the applicant has relied on a judgement passed by Kerala High Court in the matter of 1990(1) SLR 757 P.V.Madhavan Nambiar and another Vs D.V.Radha Krishnan in which it was held that the termination of service on any administrative ground contemplated by Rule 6 is a ground or reason that arises after the appointment and not on grounds that have arisen before or in regard to the appointment. Termination of service on account of irregularity in the process of selection and appointment under Rule 6 was held to be invalid.





8. Keeping in view the ratio of the case of P.V. Nambiar (Supra), when respondent's case is not that there was any administrative ground or reason which has arisen after the appointment of the applicant, I have to take the view that rule 6 cannot be processed into service by the respondents. Hence on this ^hsh~~st~~ ground the termination of service of the applicant is liable to be set aside as the same has been visited upon the applicant in violation of Rule 6. Order dated 24.12.99 is accordingly set aside. The respondents are directed to re-employ the applicant and pay him full salary and other benefits which he would have received had his services not been terminated. It is, however, made clear that allowing this OA shall not come in the way of the authorities taking appropriate action if so advised in accordance with law. The OA is allowed. No costs.


(V.K. Majotra)
Member (A)

/mk/