

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 2nd DAY OF APRIL, 1998

Original Application No. 1286 of 1996

HON.MR.S.DAYAL, MEMBER(A)

HON.MR.S.L.JAIN, MEMBER(J)

Brijesh Kumar Upadhyा, son of  
Sri Sanktha Prasad Upadhyा, posted  
as Branch Post Master of Branch  
Post Office, Bharsar, Teh. Sahjanwa  
District Gorakhpur.

... . . Applicant

(By Adv. Sri S.S. Tripathi )

Versus

1. The Union of India through  
The Ministry of Post Offices  
New Delhi.
2. The Chief Post Master General,  
U.P. Lucknow
3. The Senior Supdt. of Post Offices  
Gorakhpur Division, Gorakhpur.
4. Post Master General, Gorakhpur.

... . . Respondents

(By Adv: Shri N.B. Singh)

O R D E R

HON.MR.S.DAYAL, MEMBER(A)

This is an application u/s 19 of the A.T. Act 1985.

2. The applicant has filed this application seeking the quashing of impugned order of termination dated 5.12.96 and issuance of a direction commanding the respondents to reinstate the petitioner on the post of Branch Post Master with consequential benefits and not to interfere with the service of the petitioner as Branch Post Master.
3. The facts as narrated by the applicant are that he was duly appointed as a Extra Departmental Branch Post Master Bharsar vide order dated 21.7.95 by Senior Supdt. of Post Offices, Gorakhpur Division, Gorakhpur after his name has been called from the employment exchange and selection made from amongst the names submitted by the employment

*H. J. B. M.*

exchange. He suddenly received an order of termination of his services dated 19.9.95. The applicant represented against the order on 28.11.95 and the order of termination was cancelled by order dated 13.2.96 and the applicant reinstated on his post of Extra Departmental Branch Post Master cancelling the earlier order dated 21.9.95 by an order dated 16.2.96

4. The arguments of Sri S.S. Tripathi learned counsel for the applicant and Sri Satish Madhyan, Addl. Standing counsel appearing on behalf of Sri N.B. Singh, Senior Standing counsel have been heard. The pleadings on record have been taken into consideration.

5. The learned counsel for the applicant has challenged the order dated 5.12.96 on the ground that no opportunity for showing cause in disciplinary proceedingss was given to him and thereby Rules of natural justice were not observed. The second ground on which learned counsel for the applicant challenges the order dated 5.12.96 is that the order is ~~not~~ of termination simplicitor but it <sup>causes</sup> stigma and therefore an opportunity in accordance with rules of natural justice was necessary. Thirdly, he has mentioned that although the order of termination does not reveal any reason for dispensing with the services of the applicant, the reason is available in the counter affidavit and it is clear that a stigma is <sup>cast</sup> upon the applicant.

6. The learned counsel for the respondents has countered the argument of learned counsel for the applicant by stating that the procedure laid down in rule 6 of Extra Departmental Staff Rules known as Posts & Telegraphs Extra Departmental Agents(Conduct&Service) Rules 1964 has been followed and the services of the applicant has been terminated. Once the procedure has been followed and the termination is done within a period of three years as laid down in Rule 6, there is no necessity of either giving reasons or holding an inquiry in accordance with principles

of natural justice. He has referred to paragraph 12 of the counter reply filed by the respondents in which it has been mentioned that the applicant has not stated that he was a Member of Gram Panchayat on 14.4.95. It is also alleged that the applicant had given the date of his election in his application to P.M.G as 21.4.95 and in his previous application filed in OA 1262/95 that he was elected on 9.5.95. It has also been mentioned in the same para of the counter reply that the applicant had given three income certificates showing his income as Rs.200/-, 300/- and 1200/- respectively.

7. We find from the arguments of learned counsels that the services of the applicant were terminated on account of what had happened before he was given the letter of appointment on 21.7.95. The system adopted by the Department of Posts before appointment of E.D. agents is that the applicants are asked to furnish details in fresh applications after the employment exchange furnishes the names and the facts given in such applications are verified and then appointment given. In any case the order of termination does not relate to performance of the applicant after his appointment. The applicant ~~has~~ claimed in his OA that he had resigned from the post of member of Gram Panchayat on 13.6.95. The counter reply mentions that the ASPO had submitted his report on the application of applicant on 9.6.95 and on that date the applicant was declared best candidate available for the post.

8. We also find that the respondents have admitted in para 12 that the appointment of the applicant was cancelled on account of direction given by the Chief Post Master General. This militates against the independent application of mind on the part of the appointing authority in terminating the services of the applicant.

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9. In the light of above circumstances we allow the application, quash the impugned order of termination dated 12.5.96 and direct the respondents to reinstate the applicant with full consequential benefits.

  
MEMBER (J)

  
MEMBER (A)

Dated: April 2nd, 1998

Uv/