

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 7th day of December, 2001.

Q U O R U M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. C.S. Chadha, Member- A.

Orginal Application No. 1034 of 1996.

Jamuna Prasad S/o Sri Karore Lal,
R/o Vill. & Post - Madavara, Distt. Lalitpur.

.....Applicant

Counsel for the applicant :- Sri Avanish Tripathi
Sri B. Ram

V E R S U S

1. Union of India through the Secretary (Posts),
M/o Communication, Dak Bhawan, Sansad Marg,
New Delhi.
2. Director, Postal Services, Agra Region, Agra.
3. Senior Superintendent of Post Offices,
Jhansi Division, Jhansi.
4. Assistant Superintendent of Post Offices,
Lalitpur Sub-Division, Lalitpur.

.....Respondents

Counsel for the respondents :- Km. Sadhna Srivastava

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this O.A under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed to quash the order dated 09.08.1996, passed by respondent No.3, by which the appointment of the applicant as Extra Departmental Delivery Agent, Madavara Post Office, Distt. Lalitpur has been cancelled.

2. The facts of the case are that the post of Extra Departmental Delivery Agent (E.D.D.A), Madavara Post-Office Distt. Lalitpur had fallen vacant in October, 1995 when Sri Ram Charan, the permanent incumbent resigned. The names were called from the Employment Exchange, Lalitpur for appointment of E.D.D.A vide letter dated 25.10.1995. The Employment Exchange, in pursuance of the requisition letter dt. 25.10.1995, sponsored 5 (five) names vide his letter date 22.11.1995 but did not include the name of the applicant. On receipt of the list, Assistant Superintendent of Post Offices (respondent No.4) examined the list and ^{he was} not satisfied with the names forwarded, and he made another requisition to Employment Exchange to sponsor names of suitable candidates. On the second request, Employment Exchange sponsored three more names including name of the applicant. Thereafter, the regular procedure took place for selecting the candidates. The applicant was found most suitable and he was appointed on the post of E.D.D.A. He assumed charge on 28.12.1995.

3. Though the case of the applicant is that the some complaint was alleged on which basis, respondent No.3 reviewed the selection and appointment of the applicant and passed an order cancelling the same. However, respondents case is that the record of the selection and appointment of the applicant was received by respondent No.3 after the report of enquiry, submitted by the Dy. Superintendent of Post Offices, Jhansi. Respondent No.3 passed an order on 09.08.1996 cancelling the appointment of the applicant on which basis the impugned order dated 19.08.1996 (annexure A- 1) was passed by the Asstt. Superintendent of Post Offices (respondent No.4) terminating the

appointment of the applicant under rule- 6 of E.D (Conduct and Service) Rules, 1964. Learned counsel for applicant has submitted that as the applicant had already joined the post on 29.12.1998 and had already worked for more than 6 (six) months, it was obligatory on the part of Senior Superintendent of Post Offices, Jhansi Division (respondent No.3) to give an opportunity of hearing to the applicant before passing the order of cancellation. It is also submitted that as the appointing authority (respondent No.4) selected the applicant, It cannot be reviewed by the respondent No.3 as held by the Full Bench of this Tribunal in case of Tilakdhari Yadav Vs. U.O.I & others 1997 (36) A.T.C 539. Learned counsel has submitted that the fact[#] that the respondent No.4 requisitioned some more names on the second occasion to get better ^{numbers} ~~member~~ for selection of suitable candidates and no illegality was committed. For this purpose, applicant has placed reliance on the judgment of Division Bench of Patna High Court in case of Ram Lal Vs. U.O.I & others 1999 (2) ATJ 513. Learned counsel for the applicant has further submitted that this Tribunal, in several cases, has already taken view that in case of cancellation of appointment, an opportunity of hearing must be given to the person effected.

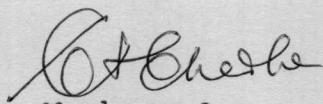
4. Learned counsel for the respondents on the other hand has submitted that the respondent No.4 committed serious illegality in requisitioning more names for consideration and the respondent No.3 was justified in cancelling the appointment of the applicant. However, learned counsel for the respondents could not give any ^{Coherent} ~~collaborate~~ explanation, as to why the impugned order was passed without giving opportunity of hearing to the applicant.

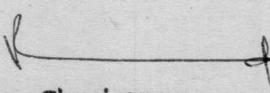


5. We have carefully considered the submissions of counsel for the parties. There is no doubt that the applicant was selected and appointed as E.D.D.A and he joined on 28.12.1995. He worked for more than six months. If the respondent No.3 received any report about alleged illegality in the appointment of the applicant, before passing the order of cancellation, he ought to have ~~been~~ given an opportunity of hearing to the applicant. Though the Full Bench of this Tribunal in case of Tilakdhari Yadav and in other judgments has held that the superior authority is not competent to review the order of appointment made by the appointing authority, ~~but we are not required to go in to all these questions, in the present case, applicant is entitled for the relief on very short ground as the order has been passed without giving any opportunity of hearing.~~

6. For the reasons stated above, this O.A is allowed. The order dated 19.08.1996, passed by respondent No.4 and order dated 09.08.1996, passed by respondent No.3 are quashed. The applicant shall be entitled to be reinstated on the post in question. However, he will not be entitled for the back wages. In case, respondent No.3 opted to pass fresh order, he shall give full opportunity of hearing to the applicant. This order shall be implemented within two months from the date a copy of this order filed.

7. There will be no order as to costs.


Member-A.


Vice-Chairman.

/Anand/