

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

DATED : THE 3rd ^{February} DAY OF JANUARY 1999

CORAM : HON'BLE MR. S.DAYAL, A.M.

HON'BLE MR. S.L.JAIN, J.M.

ORIGINAL APPLICATION NO. 1072 OF 1996

Jai Narain Rai, son of Late Shri Balram Rai,
Resident of village Repura, District - Ballia.

S/S M.K.Tewari Applicant
C/A S.K.Day
S.K.Misrq

Versus

1. Union of India, through the Secretary,
Ministry of Communication, Dak Bhawan,
New Delhi.
2. Post Master General, Gorakhpur Zone, Gorakhpur.
3. Superintendent of Post Offices, Ballia Division,
Ballia.
4. Jawahar Singh, SDI Post Office Ballia.

..... Respondents

C/R Shri Amit Sthalekar, Adv.

ORDER

BY HON'BLE MR. S.L.JAIN, J.M.-

This is an application u/s 19 of the Administrative
Tribunal Act 1985 to issue a writ/order/direction in the nature
of certiorari quashing the impugned order dated 12.9.96 passed
by respondent no.3 with consequential benefits to pay the entire
arrears of salary and other emoluments admissible to him as and
when becomes due.

SDM/ -

2. There is no dispute between the parties in respect of the fact that Raj Kumar Dubey, Extra Departmental Branch Post master, Branch Post Office, Repura (Bhansar) was to retire and on his retirement the post was to fall vacant, respondent no.3 sent a requisition to the Employment Exchange, Ballia for sponsoring the names of eligible candidates for the said post, the name of the applicant was sponsored, he was duly selected for the post of E.D.B.P.M. Branch Post Office Repura (Bhansar), he was required to undergo departmental training which he completed successfully and also deposited the amount required by respondent no.3 as security money, appointed vide letter dated 28.6.96 issued by respondent no.3, joined the services on 5.7.96 and since then working on the said post. The respondent no.3 has terminated the services of the applicant under rule 6 of Extra Departmental Staff Service Rules 1964.

3. The applicant's case, in brief, is that before passing the impugned order of termination he was/given a show cause notice-reasonable opportunity of being heard, the order of respondent no.2 which is referred in the said order has not been supplied to him, order does not disclose the reasons for termination of services, he had been complaining about the financial irregularities and corruption of erstwhile Superintendent of Post Offices, Ballia Shri B.K.Lal and S.D.I. Ballia Shri Jawahar Singh, hence in view of the complaints they bear ill will ^{malice} against him and malice and managed to get the services of the applicant terminated. Even one month's salary or notice was not given to him. Hence this O.A. for the aforesaid two reliefs.

4. The respondents denied the said allegations and stated that no notice is necessary. They further stated that on receipt of the complaint against the appointment of Shri Jai Narain Rai - cum- the applicant, the file was called by

P.M.G. Gorakhpur and after scrutiny/enquiry, the P.M.G. Gorakhpur cancelled the appointment order of the applicant on the ground that he was elected member of Gram Sabha Repura, a criminal case no.49/96 under sections 392, 506 I.P.C. was pending for trial in the court of C.J.M., Ballia. Hence the services of the applicant are terminated under Rule 6. Hence prayed for dismissal of the O.A. with costs.

5. The learned counsel of the applicant has relied on a judgment reported in 1996 S.C.Cases (L & S) 320 Union of India and others v. Jai Kumar Parida, and argued that it is settled law that if any material adverse to the applicant from the foundation for termination, principles of natural justice may necessarily require that prior opportunity of notice be given and after considering his reply, an appropriate order may be given reasons in support thereof. He further relied for the same proposition on a case reported in (1997) 36 Administrative Tribunal Cases 539 (Full Bench) decided by Central Administrative Tribunal, Allahabad, O.A.No.1062/94 Govind Singh v. Superintendent of Post and Telegraph Office, Pithoragarh Region and others, O.A.No.1275/94 Vishnu Kant Shukla v. Union of India and others decided on 17.5.96 ~~on 17.5.96~~
✓ ~~saxxxexpressitionxxxmaxxxextxxxthaxxxexpressitionxxxmaxxx~~ and 1991 SC Cases (& S) Shrawan Kumar Jha and others v. State of Bihar and others by this bench on the said proposition. We respectfully ^{with} agree to the said proposition of law and ^{held} that the impugned order terminating the services of the applicant was passed by respondent no.3 at the behest of respondent no.2 without affording an opportunity of hearing to the applicant and hence it is liable to be quashed.

6. In the result, O.A. is allowed, Order dated 10.9.96 passed by respondent no.3 terminating the services of the applicant is quashed, the applicant is provisionally reinstated

for the post of E.O.B.P.M. Repura (Bhansar) with all consequential benefits. The respondents are ordered to comply with the said order and pay consequential benefits along with cost of the litigation amounting to Rs.650/- (Rs.500/- as counsel's fee and Rs.150 other expenses) within one month of service of the order.

7. The respondents are at liberty to issue show cause notice to the applicant and after affording him reasonable opportunity of being heard to pass the reasoned order according to law.

Prabhaw
MEMBER (J)

Shan
MEMBER (A)

Gc