

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 2nd day of November, 1999

Original Application No.334 of 1998

District : Ballia

CORAM :-

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Avinash Shankar Gupta,
S/o Sri Ram Chandra Prasad Gupta,
R/o Vill-Ghorahra,
Post-Bharashar, Distt-Ballia.

(Sri Rakesh Verma, Advocate)

. Applicant

versus

1. Union of India through the
Secretary Ministry of Communication,
New Delhi
2. The Superintendent of Post Offices,
Ballia Division,
Ballia.
3. The Post Master General,
Gorakhpur Region,
Gorakhpur.

(Sri Amit Sthalekar, Advocate)

. Respondents

ORDER (Oral)

By Hon'ble Mr. S. Dayal, A.M.

This OA has been filed for setting aside the impugned order dated 18-3-1998 passed by respondent no.2 in pursuance of the letter dated 10-3-1998 issued by respondent no.3, terminating the services of the applicant w.e.f. 18-4-1998 after expiry of one month from the date of the order under Rule 6 of the Extra Departmental Agents (Conduct & Service) Rules, 1964. A direction not to interfere with the peaceful working of the applicant was also sought.

2. It is the case of the applicant that he was appointed by the order dated 17-10-1996 by Superintendent of Post Offices Ballia Division, after following due process and the appointment was on regular basis. Respondent no.3, it is alleged, has passed the order in pursuance of the direction issued to him by respondent no.2 as can be seen from the endorsement no.3 of the letter dated 18-3-1998. The applicant apprehends that action will be taken against him on complaint dated 21-10-1996 filed by Nyaya Panchayat Basarikapah Region, Ballia in which the appointment of the applicant was challenged on the ground that the persons who were sponsored by the Employment Exchange were not intimated the result of the selection and that no intimation of the cancellation of the selection was given to such persons. It has also been alleged in the application that the appointment was made in a hurry and that the candidate was at the bottom in the merit and neither he has landed property in his name nor he is a resident of the village.

3. ~~That~~ The respondents have filed their counter reply in which it has been admitted that the appointment of the applicant has been cancelled vide letter of Post Master General Gorakhpur dated 10-3-1998, and the order has been passed under Rule 6 for terminating the services of the applicant. It has also been mentioned in the counter reply that because of shortage of SC employees Sri AS Gupta, who was SC was given appointment vide order dated 17-10-1996 as he was found eligible in all respects. The respondents have not specifically denied the allegations of the applicant made in para 17 of his application regarding the complaint of the Consumer Association. A blank statement that the facts stated were incorrect and were denied, does not amount

to coming out with a proper denial since no reason has been mentioned for terminating the appointment of the applicant. The learned counsel for the applicant has chosen to rely upon the Full Bench judgement of Allahabad Bench of the Tribunal in OA No.910 of 1991 decided on 9-7-1997 between Tilak Dhari Yadav Vs. UOI & Ors in which it has been laid down that Rule 6 of the Posts and Telegraph Extra-Departmental Agents (Conduct and Service) Rules, 1964 does not confer a power on the appointing authority or any authority, superior to the appointing authority to cancel the appointment of an Extra-Departmental Agent who has been appointed on regular basis in accordance with Rules for reasons other than unsatisfactory service or for administrative reasons unconnected with the conduct of the appointee, without giving him an opportunity to show cause.

4. Arguments of Sri Rakesh Verma, counsel for the applicant and Sri Amit Sthalekar, counsel for the respondents have been heard. We have carefully gone through the pleadings and find that the respondents have admitted that the appointment of the applicant has been cancelled vide Regional Post Master General letter dated 10-3-1998. The said letter has not been brought on record. The reasons for which the appointment has been cancelled has not been mentioned in the counter reply. There is no specific denial that the appointment was cancelled on a complaint without affording an opportunity to show cause to the applicant. Under the circumstances, we find that the order dated 18-3-1998 is not sustainable in law and is, therefore, set aside. There shall be no order as to costs.

Rafiqul Hasan
Member (J)

Member (A)

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