

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 5th day of September 2000

original Application 346 of 1998.

Hon'ble Mr. Justice R.R.K. Trivedi, VC
Hon'ble Mr. M.P. Singh, AM

1. Pankaj Kulshrestha, S/o Sri C. P. Kulshrestha,
R/o house no. 161 Kalpna Nagar,
Civil Lines, Etawah.
2. Sri Virendra Kumar, S/o Sri Durjan Singh,
R/o mohalla Tundla Post Office Tundla,
Distt. Firozabad.
3. Sri Vijay Shanker Srivastava,
S/o Sri Jagdish Pd. Srivastava,
R/o Malman, RMS KP Division, Aligarh.
4. Sri Bhanwar Singh, S/o Manik Chand, R/o Village
Gandhithani PO Nagla Singh, district Firozabad.
5. Sri Surendra Pal Singh, S/o Sri Laxman Singh,
R/o Village Bana, Post Muhamadabad, Firozabad.
6. Sri Awadh Ram, S/o late Sundra,
R/o house no. 15/76 Civil Lines Kanpur.
7. Manish Kashyap (Minor) Azad about 11 Yrs S/o late
Ghanshyam through Ganga Prasad (grand father) a/a 64
Years, S/o Buchchu, R/o 13151 Parmath, Kanpur.
8. Shri Makkhan Lal, S/o Sri Shanker,
Lal Saxena, R/o Ram Vihar Colony, Palla Road,
Aligarh.

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9. Shri Ramesh Lal, S/o Sri Budhia Ram,
R/o Head Post Office Compound, Kanpur.
10. Sri Kishan, S/o Sri Ram Lal, R/o Mohalla Lok Nagar,
Unnao.
11. Sri Om Prakash, S/o Shri Ajai Ram,
R/o Vill. Shahpur PO Barautha,
Distt. Aligarh.

... Applicant

C/A s Sri O.P. Gupta

Versus

1. Union of India through Secretary,
Post and Telecommunication Department,
Govt. of India, New Delhi.
2. Post Master General, Head Post Office,
Kanpur.
3. Senior Supdt. of Railway Mail Service,
K.P. Division, Kanpur.

... Respondents

C/Rs. Km. Sadhans Srivastava



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O R D E R

Hon'ble Mr. Justice, R.R.K. Trivedi, VC

This OA under section 19 of the Administrative Tribunals Act, 1985, has been filed challenging order dated 16.03.1998 by which the selection and promotion to the cadre of test category of Group 'D' has been cancelled and they have been put back to their earlier post of non test category or casual labour as before.

Learned counsel for the applicant has assailed the order on the ground that the applicants were not afforded opportunity of hearing by the P.M.G. before passing the order. It is also submitted that the examination was held on 14.12.97, thereafter, on declaration of result the applicants were given appointment and they worked on their post for about 4 months. However, they have been deprive of this ~~charge of not~~ giving opportunity of hearing.

2. Km. Sadhans Srivastava, learned counsel for the respondents on the other hand submitted that it was not necessary to give opportunity of hearing to the applicants as some of the applicants participated during the course of inquiry. It has also been submitted that the examination and the selection suffered ^{from} ~~from~~ irregularities, consequently it was cancelled by P.M.G.

3. We have considered the averments of the learned counsel for the parites.



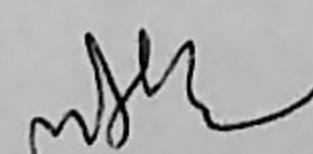
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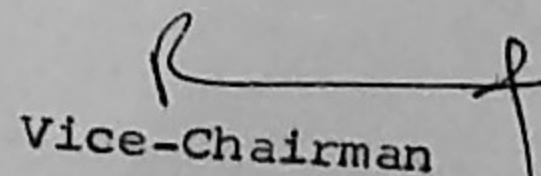
4. However, we are not satisfied that the stand taken by the respondents that opportunity of hearing was not legally required to be given to the applicants as some of them were interrogated during the course of inquiry. Purpose of inquiry was to collect the material for satisfaction of the authorities concern to take the decision on the matter. The stage for giving opportunity of hearing comes only when the authority feels *prima facie* satisfied that an action is necessary, if some of the applicant were interrogated during the inquiry, it could not legally satisfy the requirement of Principle of natural justice. It is not disputed that the applicants on the basis of selection were promoted and posted on test category of Group 'D' staff and they have worked on this capacity for about 3 months. For depriving applicants of this benefit, it was necessary to give opportunity of hearing which has admittedly not been done.

5. For the reasons stated above the OA is allowed. The order dated 16.03.98 is quashed. The applicant shall be entitled to be reinstated on their post with all benefits. However, it shall be open to the respondents to pass fresh orders in accordance with law after giving opportunity of hearing to the applicant.

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There will be no order as to costs.


Member-A


Vice-Chairman

/pc/