

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 869 of 1998

Allahabad this the 21st day of January, 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj Gen K.K. Srivastava, Member (A)

Kamla Kant S/o Sri Ram Pratap Pandey, Aged about
29 years, R/o Village and Post Sachendi, District
Kanpur Nagar.

Applicant

By Advocate Shri O.P. Gupta

Versus

1. Assistant Superintendent of Post Offices
(West) Sub Division, Kanpur-208001.
2. Director Postal Services Kanpur Region
Kanpur.
3. Post Master General, Kanpur Region, Kanpur.
4. Union of India through Secretary, Ministry
of Communication, Govt. of India, New Delhi.

Respondents

By Advocate ~~Shri~~ Km.S. Srivastava

O_R_D_E_R (Oral)

By Hon'ble Maj Gen K.K. Srivastava, Member (A)

In this O.A. filed under Section 19
of the Administrative Tribunals Act, 1985 the
applicant-Shri Kamla Kant has challenged the
termination order dated 18.05.96 passed by
respondent no.1. Against this order, the appli-
cant made a revision petition on 22.5.96 before
the D.P.S., Kanpur, which has been rejected and

the decision of D.P.S. conveyed vide S.S.P.O's Kanpur City letter dated 04.08.97. The applicant has prayed that the direction be issued to the respondents to re-instate the applicant as E.D. Packer, Sachendi with all consequential benefits.

2. The facts in short are that one post of E.D.Packer at Sachendi Post Office felt vacant in March, 1995 on the death of regular incumbent. The respondent no.1 ^{wrote} ~~written~~ a letter addressed to Employment Exchange, Kanpur to send the names of suitable candidates for filling the post. The Employment Exchange, Kanpur forwarded the names of the candidates including the applicant. On the basis of merit list the applicant was selected and appointed by order dated 12.4.96 as he was at the top in that merit list. However, the respondent no.1 terminated the services of the applicant under Rule 6(B) of E.D. Rules, 1964 by the impugned order dated 18.05.96. Aggrieved by the same the applicant preferred a ^{revision} petition on 22.5.96 before the D.P.S., Kanpur, which was rejected and the decision conveyed by the letter dated 04.08.97 (ann.-4) to the applicant. The applicant again preferred an appeal on 28.10.97 before the P.M.G., Kanpur, which has not been decided so far.

3. Heard Shri O.P. Gupta, learned counsel for the applicant and Km.S. Srivastava, learned counsel for the respondents, and perused the record.

4. Shri O.P. Gupta, learned counsel for the applicant has submitted that the appointment of the

applicant was on regular basis and he joined as E.D. Packer at saghendi Post Office on 15.04.96. The termination of the applicant on 18.05.1996 is arbitrary and without any authority, therefore, it is illegal. Shri Gupta has further submitted that the reason given for terminating the services of the applicant that one application for appointment on compassionate ground was pending, is flimsy and the applicant is entitled for relief. Km.Sadhna Srivastava, learned counsel for the respondents while contesting the claim of the applicant has submitted that the services of the applicant were terminated because one Shri Kishan Pal had to be given appointment on compassionate ground as his application was pending. Shri Kishan Pal was appointed on 11.07.96 and his services were also terminated on 19.05.98. Fresh proceedings were initiated for filling up the post on regular basis and the selection was finalised on 09.10.1998.

5. Miss S.Srivastava has also submitted that the applicant was terminated on 18.05.1996 and he filed the present O.A. on 13.08.1998 and the claim of the applicant is barred by period of limitation. We have considered the submission of counsel for the parties. We do not

6. We have considered the submissions of counsel for the parties. We do not agree with the argument of learned counsel for the respondents that the services of the applicant were terminated because of the pendency of a case of compassionate appointment. We would like to observe that the applicant was selected on a regular basis after adopting the required

formalities. The respondent no.1 was fully aware that the case for compassionate appointment was pending, but no action was taken by the respondent no.1 in this regard. Once regular appointment order was issued and the applicant had joined, the respondents had no authority to terminate the services of the applicant.

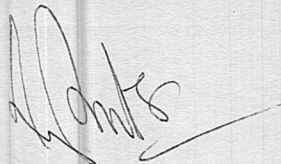
7. Miss S. Srivastava has raised the point of limitation, which is also not tenable. The services of the applicant were terminated on 18.05.96, against which he represented on 22.5.96, and his representation was rejected on 04.08.97. Thereafter the applicant filed an appeal to P.M.G., Kanpur on 28.10.1997, which has not been decided so far and when nothing was heard from P.M.G., Kanpur, the applicant filed this O.A. on 13.08.98. Therefore, we do not find that the O.A. is in any way barred by period of limitation.

8. On 26.08.98 this Tribunal passed an interim order and made it clear that any appointment shall be subject to outcome of this O.A. and, therefore, the selection finalised on 09.10.1998 cannot affect the right of the applicant in getting the relief from the Tribunal.

9. We are convinced that grave injustice has been done to the applicant by terminating his services. It is clear from the facts that on an

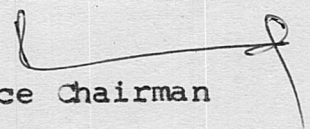
application pending for compassionate appointment, appointment was made, but subsequently it was also terminated on the ground that he claimed appointment on the basis of documents which could not be relied upon. The claim was based on adoption which was not registered. Natural consequence was that if the appointment on compassionate ground was terminated, the applicant who was regularly selected candidate, should have been re-appointed on the ^{post} ~~basis~~ of E.D. Packer. The circumstances reveal that the termination of the applicant from the service was infact cancellation of his appointment and as he had worked on the post, he ought to have been given opportunity of hearing. The ^{impugned} ~~order~~ is liable to be quashed on this ground also.

10. In view of the facts and circumstances discussed above, the O.A. is allowed and the orders dated 18.05.96 (annexure A-3) and ~~order dated~~ 04.08.97 (annexure A.4) are quashed. The respondents are directed to re-instate the applicant on the post of E.D. Packer, Sachendi, Kanpur within 2 months from the date of communication of this order. The applicant though shall be treated on duty throughout the period, but he will not be entitled for backwages. There will be no order as to costs.



Member (A)

/M.M./



Vice Chairman