

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 3rd day of June, 2004.

QUORUM : HON. MR. JUSTICE S.R. SINGH, V.C.

HON. MR. D. R. TIWARI, A.M.

O.A. No. 485 of 2004

Smt. Bushpa Singh W/O Sri Pramod Kumar Singh R/O Village
Nizampur, District - Badaun.....

.....Applicant.

Counsel for applicant : Sri A. Tripathi.

Versus

1. Union of India through its Secretary, Department of Post,
Ministry of Communication, Dak Bhawan, Sansad Marg, New
Delhi.

2. Post Master General, Bareilly Region, Bareilly.

3. Senior Superintendent of Post Offices, Badaun Division,
Badaun.

4. Sub-Divisional Inspector (Post) South Sub-Division, Badaun.

..... Respondents.

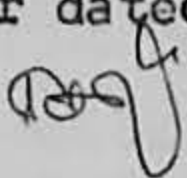
Counsel for respondents : Sri R.C. Joshi.

O R D E R (ORAL)

BY HON. MR. JUSTICE S.R. SINGH, V.C.

Heard Sri A. Tripathi, learned counsel for applicant,
Sri S.N. Mishra holding brief of Sri R.C. Joshi, learned
counsel for respondents and perused the O.A. and documents
annexed thereto. Despite opportunity, C.A. has not been
filed, We are, therefore, proceed to dispose of the OCA.
on the basis of uncontroverted averments made therein.

2. The applicant was appointed as Extra Departmental
Branch Post Master, Nizampur, District Badaun vide letter
dated 28.2.2001. In the letter of appointment, it was
stipulated that the appointment was in the nature of contract
liable to be terminated by the appointing authority and
further that the services of the applicant would be governed
by the Post & Telegraph, E.D.A. (Conduct & Service) Rules,
1964 as amended from time to time. It would appear that by
means of letter dated 25.3.2003 (Annexure A-1), the applicant

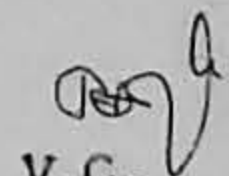


was informed of certain shortcomings in his original application form and the income certificate and was also called upon to explain as to why her services be not terminated because of the said shortcomings. The applicant submitted her reply vide letter dated 1.4.2003 (Annexure-9). By order dated 5.3.2004 (Annexure A-2), the services of the applicant has been terminated in the purported exercise of power under Rule 8 of GDS (Conduct & Employment) Rules, 2001 in pursuance of Regional Office letter No.RPB/Recrt/GDS-45/2001 dated Bareilly, 3.3.2004.

3. The impugned order appears to have been passed at the behest of Post Master General, Bareilly Region, Bareilly vide Regional Office letter dated 3.3.2004. It is well settled that exercise of power by the authority at the dictates of authority is vitiated by law. That apart the explanation given by the applicant vide letter dated 1.4.2003 in response to the show cause notice does not appear to have been adverted to by the Superintendent of Post Offices while terminating the services of the applicant. In the circumstance, therefore, we are of the considered view that the order impugned herein cannot be sustained. The view we are taking find support from a Full Bench decision of the C.A.J., Madras Bench in R. Jambukeswaran Vs. Union of India & others ATJ 2004(2) 1 (FB) 200 wherein it has been laid down that appointment of a person on EDA on regular basis cannot be terminated on the dictates of a higher authority. Accordingly, the O.A. succeeds and is allowed. The impugned order is quashed. The applicant is entitled to all consequential benefits. The Superintendent of Post Offices is directed to implement the order within a period of two months from the date of receipt of a copy of this order.

No order as to costs.


A.M.


V.C.

Asthana/