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CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD BENCH.

O.A.No.103 of 1986.

Shiv DeshApplicant.

Versus

Senior Superintendent of Post Offices,
Banda Dvision, Banda & anotherRespondents

Hon'ble Mr.Justice, U.C.Srivastava,VC

Hon'ble Mr.A.B.Gorthi,A.M.

(By Hon'ble Mr.Justice U.C.Srivastava,VC)

In response to Notification dated 10.1.84, the applicant applied for the post of Extra Departmental Branch Post Master. As the applicant was a local resident and was High School-Examination passed, he was considered at the time of selection and that is why he was selected and given appointment vide order dated 17.5.84. According to the applicant, his work was quite satisfactory and reports which were being submitted time to time, were always in his favour. but vide order dated 23.3.85, the services of the applicant were terminated. The applicant filed a writ petition against the same which was also dismissed on the ground of statutory remedy. The applicant filed a review petition before the Director of Post Offices, Kanpur but no action was taken against the same, that is why he approached this Tribunal.

2. The respondents have tried to justify the termination order and stated that there were three candidates who furnished the income certificate from other sources also. The Inspector of Post Offices was asked to make an enquiry about the property owned by them. Later on, the matter was

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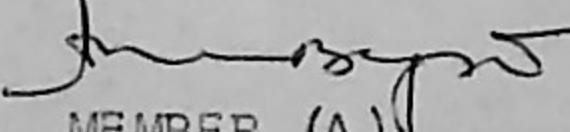
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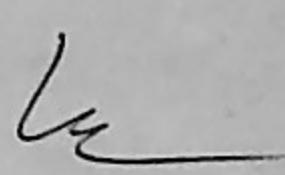
also sent to the Tehsildar and certain verifications were made. A complaint was made by one Ram Solaney to the higher authority regarding irregular appointment of the applicant and it is on his complaint that the Director of Postal Services, Kanpur, who was a reviewing Authority, passed an order that the applicant's services should be terminated. This order was passed by the reviewing authority without apprising of the applicant that there is a complaint against him and the matter is going to be reconsidered. It appears that the applicant was asked to handover the charge to Ram Solaney and thus, the charge was taken by said Ram Solaney. According to the respondents, the applicant had superseded more qualified candidates who secured more marks in High School than the applicant and as such the appointment made in favour of the applicant was found irregular. The rules provide that the candidate must have passed VIII standard and matriculation or equivalent to it may be given preference. Reference has also been made to the communication dated 13.3.84 issued by the Director General, Post Offices in which it has been mentioned that while making selection to the post of Extra Departmental Branch Post Master, SC and ST representations may be given preference but they must satisfy the criteria that the candidates who are High School passed, would be given preference than who have less qualification. The counter-affidavit would indicate that the authority concerned made selection after taking into consideration the qualification and all the relevant matter and later

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on very soon he changed his mind and came to the conclusion that he has committed mistake in making the said selection. It has not been stated in the counter affidavit that the action is proposed against the authority who made such selection. In the absence of rules and regulations or in the absence of departmental circular letter that one who secures more marks in the High School, may be appointed, the appointment of the applicant cannot be said ^{legal} irregular and the termination order passed against him is illegal. Accordingly, the application deserves to be allowed and the termination order dated 23.3.85 is quashed and the applicant shall be deemed to be continuing in service. However, we make no observation to with regard ^{salary} of the applicant for the intervening period as it is a matter which is to be decided by the departmental authorities themselves in accordance with law. No order as to cost.


MEMBER (A)


VICE CHAIRMAN

DATED : February 26, 1992

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