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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.314 of 1986 (Original Suit No.248 of 1980)

Rajendra Bahadur Singh	...	Applicant
	Vs.	
Union of India and 7 others	...	Respondents.

Hon.D.S.Misra, AM
Hon.G.S.Sharma, JM

(By Hon.G.S.Sharma, JM)

This transferred application is an original suit and has been received by transfer from the Court of III Additional Munsif Sultanpur under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The applicant Rajendra Bahadur Singh (hereinafter referred to as the plaintiff) was appointed as Extra Departmental Branch Post Master (for short EDBPM) on 18.2.1980 by the Superintendent of Post Offices Sultanpur- defendant no.5 at Branch Post Office Parsurampur. On 25.7.1980, he filed a suit for permanent injunction restraining the defendant nos. 1 to 6 from terminating his services with the allegation that though he was serving the Postal Department satisfactorily, the postal authorities with a view to appoint some other candidate of their interest are threatening him since 10.7.1980 to terminate his services. The plaintiff thereafter impleaded the private defendant no.7 Sahdeo and thereafter he impleaded the private defendant no.8 Smt. Kishan Devi with the allegations that the defendant nos. 1 to 6 were formerly trying to appoint defendant no.7 or any of his relatives in his place and thereafter appointed the defendant no.8-the daughter-in-law of defendant no.7 and he also sought an amendment in the relief clause. He now wants a mandatory injunction for his reinstatement in service as well as for a declaration that

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the appointment of defendant no.8 made in his place is void. His case is that he was appointed as EDBPM after due publicity in accordance with rules and was discharging his duties with full satisfaction and only in order to give appointment to defendant no.8 his services were terminated.

3. The suit has been contested on behalf of the defendants. In the written statement filed on behalf of the Government Defendant nos. 1 to 6 by the defendant no.5, it has been stated that though the plaintiff was appointed as EDBPM after publicity, the defendants have the power to dispense with his services at any time without notice on administrative ground unconnected with his conduct. It was denied that the services of the plaintiff were terminated on account of the interest of the defendants in any other person. The services of the plaintiff are governed by the Posts and Telegraphs Extra Departmental Agents (Conduct and Service)Rules, 1964 (hereinafter referred to as the Service Rules). As a suitable person was required for the newly sanctioned post of EDBPM Parsurampur, the vacancy was notified through Sub Post Master Lambhua, Pradhan Gaon Sabha Parsurampur and Assistant Superintendent of Post Offices, Sultanpur defendant no.6. Out of the candidates, who had applied for the said post, the plaintiff was found to be most suitable and he was given appointment in Dec.1979. Thereafter, complaints were received that the Pradhan of the Gaon Sabha did not make the due publicity in order to help the plaintiff, who is closely related to him and the vacancy was in fact concealed by the Pradhan from the general public. On such complaints, the Regional Director Postal Services Allahabad- defendant no. 4 directed the defendant no.5 to terminate the services of the plaintiff on the ground that wide publicity was not made before making his selection. The services of the plaintiff were accordingly dispensed with vide order dated 14.7.1980 for making a fresh selection after due publicity. The said order was passed

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on administrative ground in public interest and the plaintiff could also apply for fresh selection. His suit is accordingly misconcieved and is barred by Section 80 CPC.

4. In the written statement filed on behalf of the defendant nos.7 and 8, it has been stated that the plaintiff has no right to file the suit and the defendant no.8 was rightly and validly appointed as EDBPM and the suit of the plaintiff is bad and is not maintainable.

5. We have carefully considered the contentions raised on behalf of the parties and have also gone through the material on record in the light of their submissions. Though the suit was filed on 25.7.1980 claiming that the plaintiff was still in service, his service had already been terminated by the defendant no.5 on 14.7.1980. The plaintiff has claimed the relief of his reinstatement but has not given any valid reason challenging the correctness or propriety of the order of his termination. He has also not filed the copy of order of his termination from service. His only allegation is that in order to appoint someone else in his place, the defendants were threatening him from 10.7.1980 to terminate his services despite there being no complaint against him. Atleast after knowing subsequently that his services stand terminated, the plaintiff should have sought necessary amendment in the plaint to challenge the validity of the order of his termination from service. He, however, did not chose to do so. Rule 6 of the Service Rules, with which the plaintiff was governed, then ran as under:-

"Termination of Services:

The services of an employee who has ^{already} not rendered more than three year's continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice for generally unsatisfactory work, or on any administrative ground unconnected with his conduct."

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The words "for generally unsatisfactory work, or on any administrative ground unconnected with his conduct" were subsequently deleted w.e.f. 19.7.1982. The Government defendants have produced before us the appointment files for the post of EDBPM Parsurampur. The original appointment letter dated 15.2.1980 of the plaintiff is available in these files. In the appointment file of the plaintiff, there is a resolution dated 20.12.1979 of Gaon Sabha Parsurampur stating that the Gaon Sabha had passed an unanimous resolution for the appointment of the plaintiff as EDBPM Parsurampur. This supports the contention of the defendants that the Gaon Sabha Pradhan Parsurampur was interested in the plaintiff and complaints were received that the plaintiff was given the appointment without due publicity of the vacancy of the newly created post of EDBPM in village Parsurampur. It further appears from the record produced before us by the defendants that complaints were received against the appointment of the plaintiff and an enquiry was held in respect thereof ~~by~~ ASPO Vigilance. After perusing his report dated 4.7.1980, the defendant no.4 ordered on 9.7.1980 that in view of the irregularities the earlier appointments are cancelled and the defendant no.5 should issue notice for fresh appointments. In pursuance of this order, the defendant no.5 terminated the services of the plaintiff and issued fresh notice for filling the post of EDBPM Parsurampur. From the record, it appears that the letter dated 14.7.1980 was issued on behalf of the defendant no.4 on 15.7.80 with a direction to the defendant no.5 to terminate the services of the plaintiff and actually there is no other order dated 14.7.1980 issued by defendant no.5 on the record. In any case, the order dated 14.7.1980 issued by defendant no.4 does not cast any aspersion on the plaintiff about his any conduct and the only ground on which his services were terminated was that the appointment was not made after due publicity due to administrative lapses and a fresh appointment should be made after

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necessary publicity. As already stated above, the plaintiff has not filed the order of his termination from service and from the material on record, it appears to us that the order of termination of the plaintiff passed by the defendants was merely an administrative order without any stigma attached to the plaintiff and as such, the order is fully covered under rule 6 of the Service Rules as he had not completed minimum service of 3 years by that time.

6. The appointment of the defendant no.8 has been challenged merely because defendant nos. 1 to 6 were interested in her. There is no evidence on the record to substantiate this allegation. After terminating the services of the plaintiff, fresh applications were invited for filling up the post of EDBPM Parsurampur and on the basis of second selection, the defendant no.8 was given the appointment. It has neither been alleged nor established by any material on record that the defendant no.8 was not a suitable or qualified candidate for such appointment. Her appointment, therefore, cannot be cancelled or held to be void. There is no other point for consideration in this case and the appointment of the plaintiff having been cancelled on administrative ground was fully covered under rule 6 of the Service Rules and there is no merit in his case.

7. The suit is accordingly dismissed without any order as to costs.

[Signature]
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MEMBER (A)

[Signature]
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MEMBER (J)

Dated: March 10, 1988
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