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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO. 404 of 1986(T)

Union of India & *Another*

..... Defendants  
appellants.

Versus

Jitendra Nath Pandey

..... Plaintiff.  
respondent.

Hon'ble D.S.Misra,A.M.  
Hon'ble G.S.Sharma,J.M.

( Delivered by Hon'ble D.S.Misra)

This is an appeal(no. 353 of 1984) against the judgment dated 16.5.1984 of Munsif City Azamgarh passed in Suit no.421 of 1982,which was decreed by the learned trial court. In this appeal, the defendants-appellants have contended that the order of the trial court was against the law and the facts and circumstances of the case.

2.The brief facts of the case are that the plaintiff-respondent,who was working as Extra - Departmental Agent in Sub Post Office Mohnarh District Azamgarh since 18.2.1981,was asked to furnish a certificate of income on 8.4.1982 and the same was submitted, but the Superintendent of Post Offices Azamgarh passed an order of termination of the services of the plaintiff on 30.4.1982 in an illegal manner without following the provisions of Article 311 of the Constitution. The suit was contested on behalf of the appellants(defendants) in which it is stated that the plaintiff's appointment was on a provisional basis and on further inquiry into the matter, it was found that the plaintiff had no source of income; that the

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plaintiff was given an opportunity vide letter dated 8.4.1982 to produce evidence in support of his source of income but the evidence produced by him was not found satisfactory and his services were terminated; that as the appointment of the plaintiff was on a provisional basis, his services were rightly terminated in accordance with the rules.

3. On the basis of the pleadings of the parties, the learned trial court framed four issues. However, for the purpose of this appeal, it would be sufficient to discuss issue no.1 which is as follows:

1. Is the order of termination of the services of the plaintiff dated 30.4.1982 null and void as stated in para 5 of the plaint?

The trial court has discussed the oral evidence as well as documentary evidence produced by the parties in support of their case and come to the conclusion that the services of the plaintiff were terminated without giving sufficient opportunity to the plaintiff to produce evidence in support of his claim that he had a source of income. The trial court has also observed that the defendants have themselves conceded that the department had not fixed any minimum monthly income which is considered sufficient for this purpose. The trial court has further observed that the plaintiff is the only son of his father, who had agricultural land in his name which was gifted to the plaintiff in the year 1980. The original gift deed in favour of the plaintiff was produced before the defendants

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and the Tehsildar Phoolpur had also given certificate that the plaintiff had property from which he received Rs.400/- per month as income. The trial court overruled the contention of the defendants that since the property was not entered in the name of the plaintiff in the revenue records and therefore, the contention of the respondent about this source of income could not be relied upon. The trial court, relied upon the contention of the plaintiff that the entry in the revenue records could not be made due to the ongoing settlement operations under which corrections of revenue record is prohibited and this was found a valid reason by the trial court.

4. We have considered the matter and we find that the findings of the trial court are based on a proper appreciation of the facts and circumstances of the case and the relevant laws. The absence of any income limit prescribed under the rules the action of the respondents in terminating the services of the plaintiff-respondent without giving due consideration to the evidence produced by him is contrary to the principles of natural justice and is also violative of Article 311 of the Constitution of India. The defendants have themselves conceded that the services of the plaintiff were not terminated under Rule 6 of the E.D.A. Rules 1965 and that it was due to the alleged failure of the plaintiff-respondent to produce evidence in support of his source of income. We are of the opinion that the findings of the trial court are in accordance with law and there is no

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justification for interference with this order.

In the result the appeal is dismissed without any order as to costs.

A.M.  
13.1.88

J.M.  
13/1/88

JS/ 13.1.1988