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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO.614/86

Govindas

plaintiff/appellant

Versus

Union of India & others

Defdt/respondents

Hon'ble D.S.Misra, A.M.

Hon'ble G.S.Sharma, J.M.

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

This Civil Appeal no.188 of 1983, which was pending in the court of Ist Addl. District Judge, Jhansi, has come on transfer under Section 29 of the A.T. Act XIII of 1985. The instant appeal is against the judgment and decree dated 23.5.78 passed by the III Addl. Munsif, Jhansi in Original Suit no. 265 of 1973. The main ground taken in the appeal is that the services of the plaintiff/appellant were terminated by a lower authority than the appointing authority and that the order of termination was by way of punishment passed in violation of Article 311(2) of the Constitution of India.

2. The brief facts of the case are that the appellant was appointed as a mail peon w.e.f. 28.2.69 and his services were terminated by an order dated 29.12.69. In the reply filed on behalf of the defendant/respondents it was averred that the services of the defendant/respondents being purely temporary were terminated under Rule 6 of the E.D.A (Conduct and Service) Rules 1964. On the basis of the pleadings of the parties, the trial court framed six issues, but for the purpose of deciding this appeal, it would be sufficient to consider the findings of the trial court on issue no.2 which is as follows:

"Whether the notice dt.29.12.69 is illegal, void and against the natural justice?"

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.2.

The learned trial court has discussed the evidence adduced by the parties and on the basis of the oral evidence of the plaintiff/appellant, has come to the conclusion that the plaintiff was appointed to the post of mail peon by the Inspector of Post Office-s and not by the P.M.G., U.P., as alleged by him in his plaint. Learned trial court has also held that the services of the plaintiff/appellant were terminated under Rule 6 of the E.D.A. (Conduct and Service) Rules and not by way of punishment and were not violative of the provisions of Art. 311(2) of the Constitution as alleged by the plaintiff/appellant.

3. We have heard the arguments of the learned counsel for the parties, and have also carefully perused the record. Learned counsel for the appellant laid much emphasis on the fact that the trial court had not taken into consideration the documents filed by the plaintiff/appellant in support of his case. We have considered the documents filed by the appellant and we find that these documents do not provide any help to the appellant. We are, therefore, of the opinion that the non-consideration of these documents by the trial court has not adversely affected the case of the appellant.

4. The second contention of the appellant that the services of the appellant were terminated by way of punishment based on the argument that during the course of his service, the appellant was asked to explain his conduct on several dates by the Inspector of Post Offices, who had passed the order of termination. The trial court has held that the services of a temporary servant could be terminated for unsatisfactory work and such termination does not amount to a punishment and he has relied upon a case law **Collector**

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.3.

Varanasi Vs. Mathura Ram, 1976 A.L.J., page 186. We have considered this matter also and we find that besides the case law, mentioned above, the wordings of Rule 6 of the E.D.A. Conduct Rules, are fully applicable to the present case. Rule 6 of the E.D.A. (Conduct and Service) Rules as it existed is reproduced below.

"6. TERMINATION OF SERVICES:

The services of an employee who has not already 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."

The appellant was appointed to the post on 28.2.69 and his services were terminated by an order dated 29.12.69. Thus he had not completed 3 years of service as E.D. mail peon and had not acquired any right to continue on that post. We are, therefore, of the opinion that the findings of the trial court on the second point urged by the appellant is also in accordance with law.

For the reasons mentioned above, we are of the opinion that there is no merit in the appeal and the same is dismissed without any order as to costs.

Mathura
A.M. 28.7.87

Mathura
J.M. 28/10/87

JS/28.10.1987