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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No .1249 of 1987 .

Sri Jagdamba Prasad Pandey

applicant.

Versus

Union of India and others.

Respondents.

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

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

(By Hon'ble D.S.Misra)

This is an application under section 19 of the Administrative Tribunals Act XIII of 1985 against the order dated 3.12.1987 passed by the Director of Postal Services,Allahabad (respondent no 2) terminating the services of the applicant as Extra Departmental Branch Post Master,Arzi,District Basti.

2. The case of the applicant is that the post of Extra Departmental Branch Post Master,Arzi,Basti had fallen vacant after the death of Sri Shiv Nath Chaturvedi,the previous holder of the post and the applicant applied for this post and was selected by the Superintendent of Post Offices Basti, respondent no.3; that he was appointed Extra Departmental Branch Post Master Arzi,on 19.5.87(copy annexure 1);that the applicant was sent on one week's training and after completing his training, he took charge as Extra Departmental Branch Post Master Arzi on 9.6.87(copy annexure 2);that on receipt of a complaint from Sri Satrugan Nath Pandey, who was also an applicant ,respondent no 2 without issuing any notice or without giving any opportunity to explain the case of the applicant set aside the appointment of the applicant by an order dated 3.12.87; that on receipt of the order dated 3.12.87 of respondent no 2, respondent no.3 sent the order to the

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Asstt. Superintendent Post Offices Bansi, who informed the applicant that his appointment has been cancelled by respondent no 2, but he did not give any order to the applicant. The applicant has prayed that the order dated 3.12.87 passed by respondent no 2 be quashed and the respondent no 2 be restrained from appointing Sri Satrugan Nath Pandey in place of the claimant.

3. In reply, filed on behalf of the respondents, it is stated that the order dated 3.12.87 was passed by the Director of Postal Services, Allahabad after considering the representation of Sri Satrugan Nath Pandey received by him and after examining the whole facts (copy C.A.1); that on receipt of the aforesaid decision dated 3.12.1987 the services of the applicant were terminated w.e.f. 14.12.87 (copy annexure CA2); that the services of the applicant can be terminated under the E.D.A. (Conduct and Service) Rules at any time without giving any notice or assigning any reasons that the appointment of the applicant was in the nature of contract which was liable to be terminated and the same was done by the appellate authority and that a copy of the termination order was sent to the applicant through Asstt. Superintendent of Post Offices, Bansi but before receiving the aforesaid memo, the applicant left the place and the order dated 14.12.87 has been implemented w.e.f. 18.12.1987, afternoon.

4. An impleadment application was filed by Satrugan Nath Pandey. The applicant filed an objection against the impleadment application of Sri Satrugan Nath Pandey.

5. The applicant filed rejoinder affidavit in which it is contended that under the E.D.A. (Service and Conduct) Rules respondent no 2 has no power to cancel the appointment

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of Extra Departmental Branch Post Master passed by the competent authority and that the order passed by the respondent no 2 is illegal, arbitrary and without jurisdiction; that the respondent no 3 has no power to terminate the services of the applicant on the basis of the illegal order dated 3.12.87 passed by respondent no 2; that the respondent no 2 has neither issued any notice nor afforded any opportunity to the applicant to put up his case and has passed an ex parte order which is illegal.

3. We have heard the arguments of the learned counsel for the parties and have also carefully perused the documents on record. The respondents have themselves filed copy of the order dated 3.12.87 (C.A.1) passed on behalf of the Director Postal Services Allahabad in which it is stated that the Director Postal Services Allahabad has ordered the cancellation of the appointment of Sri Jagdamba Prasad Pandey, applicant as Branch Post Master at Arzi and has further directed the Superintendent of Post Offices Basti to start denovo selection from among existing applicants. On receipt of this letter Superintendent of Post Offices Basti passed an order on 14th December, 1987 terminating the services of the applicant with immediate effect. The contention of the applicant that the Director Postal Services, Allahabad had no power to cancel the appointment of the applicant as the appointment was made by the Superintendent of Post Offices, Basti, who is the competent authority in the matter. The respondents have nowhere stated that the Director Postal Services enjoyed any such power under the EDA (Conduct and Service) Rules, which governs the service conditions of E.D. Agents. In the schedule of appointing authority under E.D.A. (Conduct and Service) Rules, Senior Superintendent/Superintendent of Post Offices is the appointing authority for extra departmental

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Sub Post Master, or a Branch Post Master. In the present case it is not disputed that the appointment of the applicant was made by the Superintendent of Post Offices, Basti, who is the competent authority. Under Rule 6 of the EDA (Conduct and Service) Rules, the appointing authority alone has the power to terminate the services of an extra departmental agent and the Director Postal Services has not been vested with such power. In this case the order dated 14.12.87 passed by the Superintendent Post Offices is in compliance with the directions of the Director Postal Services and the Superintendent of Post Offices in passing such an order has not done so after exercising his own judgment and discretion. In our opinion, this order has been passed without the application of mind of the competent authority and is not sustainable in law. We are of the opinion that the order dated 3.12.87 cancelling the appointment of the applicant is without jurisdiction and is not sustainable in law. Accordingly we quash the order dated 3.12.87 passed by the respondent no 2 and the order dated 14.12.87 passed by the respondent no 3 and direct that the applicant be deemed to be in the service of the respondents as Extra Departmental Branch Post Master Arzi District. However, the competent authority is free to pass suitable order under the powers vested in such authority under the EDA (Conduct and Service) Rules.

For the reasons mentioned above, the application is disposed of accordingly without any order as to costs.

[Signature]
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A.M.

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J.M.