

CENTRAL ADMINISTRATIVE TRIBUNAL

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Registration T.A. No. 93 of 1987

Narendra Singh Applicant

Vs.

Sub-Divisional Inspector Post

Offices Chhibramau, Fatehgarh & ors ... Respondents

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

Hon' Mr. D.K. Agrawal, J.M.

(By Hon' Mr. D.S. Misra, A.M.)

In this application under section 19 of the Administrative Tribunal Act, 1985, the applicant has prayed for quashing the impugned termination order dated 20-5-85 (copy Annexure-II) passed by Superintendent of Post Offices Farrukhabad and issue of a direction to the respondents to permit the petitioner to be as Extra Departmental Delivery Agent in Post Office Kisai Jagdishpur, District Farrukhabad.

2. There is no dispute regarding the main facts of the case. The applicant was appointed as Extra Departmental Delivery Agent by the Sub-Divisional Inspector, Chhibramau, Sub-Division, after making selection from amongst the candidates sponsored by the District Employment Officer, Fatehgarh. On receipt of representations from villagers^{of} Kisai Jagdishpur regarding irregular appointment of Shri Narendra Singh, inquiries were conducted into the matter and the

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appointment of the petitioner was found irregular, and as such that was ordered to be set aside by an order dated 25-1-83. Accordingly, the applicant was relieved from the post on 10-2-83. The applicant preferred an appeal to the Director Postal Services Kanpur Region against the order contained in the memo dated 25-1-1983 which was rejected vide order dated 4-5-83. The petitioner then filed a writ petition against the orders of the Director, Postal Services, Kanpur in the High Court of Allahabad which was also dismissed on 18-10-83. A fresh selection was held for filling the post which had remain^{ed}/vacant since 10-2-83 and the SDI(P) Chhibramau again addressed the District Employment Officer, Fatehgarh for sending applications for appointment of EDDA Kisai Jagdishpur on 20-9-83. Names and details of 8 candidates including that of the applicant were received by the Sub Division Inspector Chhibramau who again selected the petitioner and appointed him to the post on 1-6-1984. It is alleged on behalf of the respondents that the applicant did not fulfil the prescribed condition of being resident of the village where the Post Office was located and, therefore, orders were passed terminating the services of the applicant on 20-5-1985 (Annexure-A-II). The applicant was relieved from the said post on 21-5-1985.

3. The main point for consideration in this case is whether the services of the applicant could be dispensed with without communicating to the applicant an order terminating his services. The respondents admit that the applicant was relieved of his charge in pursuance of the order dated 20-5-1985 issued by the Superintendent of Post Offices, Farrukhabad. In para 7 of his petition, the applicant has specifically

stated that no termination letter or order was served upon him and he is also not aware of any order passed by Superintendent of Post Offices, Farrukhabad Division. In para 12 of their reply the respondents have merely stated that the Mail Overseer, while replacing him must have given him copy of the order of the appointing authority who happens to be SDI(P) Chhibramau. It is further stated that a copy of this letter has also been enclosed with the petition without mentioning the Annexure Number of the petition. It is also stated in para 13 of the reply that the Department is authorised to terminate the services of any E.D. official without notice and reason, if his services are less than 3 years under Rule 6 of the Extra Departmental Agents (Conduct & Service) Rules, 1964. We have examined this contention of the respondents in the light of the provisions of the EDA (Conduct & Service) Rules, 1964 and we find that there is no merit in this contention of the respondents. Rule 6 of the EDA (Conduct & Service) Rules, 1964 is as follows:

" 6. Termination of Services:

The service of an employee who has not already rendered more than three years' continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice."

This rule gives authority to the appointing authority to terminate the services of a ED Agent, who has put in less than 3 years service without giving any notice but, it does not provide for non issue of a written order and its service on the employee. The applicant was given an appointment in writing and if at any stage

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it become necessary to terminate his services, this should have been done by issue of a written order. We are of the opinion that the procedure adopted by the respondents in terminating the services of the applicant is illegal and void.

4. The learned counsel for the applicant filed copy of a judgement dated 21-3-1984 of the Division Bench of the Allahabad High Court in Civil Miscellaneous Writ Petition No. 1103 of 1983, Govind Saran Dwivedi and others Vs. Union of India and others in which case it was held that since the petitioners had been appointed after their selection and they had been working for more than 2 years, they had acquired a right to continue in service unless the same was terminated in accordance with the service rules. In that case the appointment order was cancelled and the petitioners were put off duty on account of cancellation of selection of appointment. The Hon'ble Judges held that the petitioners were entitled to be heard before they could be put off duty. The petition was allowed and the order of cancellation of their appointment was quashed. In our opinion the facts of the instant case are some what similar to the above mentioned case in so far as the selection of the applicant was held to be irregular by the Superintendent of Post Offices, Farrukhabad and the applicant was relieved of his duties without any order of termination having been passed or served on the applicant.

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We are of the opinion that such an order being illegal and void must be quashed. Accordingly we quash the impugned order dated 20-5-85 and direct that the applicant will be deemed to be in service of the respondents with all consequential benefits. We also direct that the respondents will allow the applicant to join duty of the post held by him earlier within one month from the date of the receipt of a copy of this order.

SK Aggarwal
MEMBER (J)

Sharma
MEMBER (A)

(sns)

5th July
JUNE 1989.
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