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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

ORIGINAL APPLICATION NO. 595 of 1987.

Ram Sanehi Singh

Applicant.

Vs.

Superintendent of Post Office
Prakhand Banda & another

Respondents.

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

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

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 challenging the order dated 23.6.87 passed by Superintendent of Post Offices Banda (respondent no.1) posting Sri Hawaldar Singh as Extra Departmental Branch Post Master Ghazipur, District Banda.

2. The applicant's case is that he was appointed as Extra Departmental Branch Post Master, Post Office Ghazipur, District Banda by an order dated 3.6.76 issued by the Superintendent Post Offices Banda (annexure -1); that the applicant was appointed in a clear vacancy as the services of Sri Hawaldar Singh who was previously working as Extra Departmental Branch Post Master, Branch Post Office Ghazipur, Banda were terminated sometime in the year 1980; that the appeal of Sri Hawaldar Singh against the order of termination was allowed by ~~the~~ order dated 23.6.87 and the order of termination was set aside and the applicant was threatened to hand-over charge to Sri Hawaldar Singh without any rhyme or reason (copy of order at annexure-2); that the service of the applicant is a contractual service and if the contract was to be terminated, his service could not be terminated without serving a notice on him; that the applicant had put in about 12 years ~~of~~ continuous service and a civil right had accrued in his favour and his services can not be terminated except in accordance with law. The applicant has prayed that respondents nos. 1 and 2 may be restrained from taking ~~any~~ charge from the applicant. At the admission stage an order that no action will be taken to terminate the services of the applicant merely on the basis of the order dated 23.6.87 of respondent no.1 was passed.

3. In the reply filed on behalf of the respondents, it is stated that one Sri Hawaldar Singh, Extra Departmental Branch Post Master District Banda, was put off duty w.e.f. 6th December, 1975 due to a criminal case instituted under Section 409 of the Indian Penal Code against him; that during his put off duty, the applicant was appointed vide ~~an~~ order dated 3rd July, 1978 on provisional basis and in the said appointment order, it was clearly mentioned that his appointment shall be in the nature of contract and liable to be terminated by the Superintendent Post Offices Banda at any time; that Sri Hawaldar Singh was acquitted by the court of law on 25th July, 1985 and the departmental proceedings were also completed and an order dated 23rd June 1987 was issued to put back Sri Hawaldar Singh on

duty; that in pursuance of the aforesaid order dated 23rd June 1987 Sri Hawaldar Singh took his charge of Extra Departmental Brnach Post Master Ghazipur,District Banda on 7th July,,1987;that it is absolutely wrong to allege that the service of Sri Hawaldar Singh was terminated in the year 1980 as alleged in para 6(ii) of the application; that the applicant was appointed only in a stop gap arrangement against the vacancy caused due to put off duty of Sri Hawaldar Singh and the provisions of Rule 6 of EDA(Conduct and Service) Rules 1964 are not applicable to the applicant;that the applicant had come to the tribunal by suppressing the material facts that he had already been relieved of duty as Branch Post Master Ghazipur and that the applicant was not entitled to any relief.

4.Rejoinder-affidavit was filed by the applicant in which the allegations contained in the original application were reiterated and it is further stated that no order of termination of the services of the applicant was served on him and that he was still holding charge of seat cash etc, with him and he is still dealing with the work of the office.

5.We have heard the arguments of the learned counsel for the parties and have perused the record of the case. Learned counsel for the applicant laid emphasis on the fact that by virtue of working for about 12 years as EDABPM Ghazipur,District Banda, the applicant had acquired a civil right to continue on that post and that his services could not be terminated except by way of punishment,after holding proper departmental inquiry. Learned counsel for the respondents contended that the service of the applicant could be terminated in terms of the letter of appointment dated 3.6.76. We have considered the matter. The main point for consideration in this case is whether the applicant had acquired any right to continue as Extra Departmental Branch Post Master,Ghazipur. A perusal of his appointment letter would show that his appointment was on a provisional basis and in the nature of a contract liable to be terminated by him or by the appointing authority by notifying the other in writing. The applicant has himself filed copy of the order dated 23.6.87(annexure-2) in which it is stated that Sri Hawaldar Singh ,EDBPM,Ghazipur was put off duty and chargesheeted for certain irregularities and that he was exonerated of all charges and reinstated in his previous service,a copy of this endorsement to Sub Divisional Inspector Banda(North) with the remark that Sri Hawaldar Singh should be handed over charge of the Branch Post Office Ghaziabad ,Banda,a copy of this is also endorsed to the Branch Post Master Ghaziabad. The respondents' contention is that this letter was in the nature of a notice that his services ~~were~~ have been ~~be~~ terminated and that he should handover charge to Sri Hawaldar Singh,who was reinstated in the post.

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6. We have considered the matter and we are of the opinion that in terms of the letter of appointment, the applicant has acquired two sets of right (a) that his services can be terminated on the basis of a notice in writing ^{only} and (b) that his services will also be governed by the provisions of the EDA (Conduct and Service) Rules 1964. The order dated 23.6.87 putting Sri Hawaldar Singh on duty is not a proper notice in terms of the letter of appointment dated 3.6.76 given to the applicant. It is also not in-conformity with the provisions of the EDA (Conduct and Service) Rules 1964. There is also a dispute about the applicant having been relieved on 7.7.87. A perusal of the chargesheet filed by the respondents as well as applicant indicates that the handing over and taking over has not been done in the prescribed manner. The applicant has also obtained a stay order in this regard. Accordingly we direct that the respondent no.1 should take action in accordance ^{formalizing} with the provisions of the EDA (Conduct and Service) Rules, 1964 before the services of the applicant.

The application is disposed of accordingly without any order as to cost.

A.M. 28/8/87

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