

(5) (A3/1)
(6)

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH, ALLAHABAD

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Original Application No. 1068 of 1987

Om Prakash Singh Applicant.

Versus

Union of India and others Respondents.

Hon'ble Mr. A.B. Gorthi, Member Administrative

Hon'ble Mr. S.N. Prasad, Member Judicial

(By Hon'ble Mr. A. B. Gorthi, A.M.)

By means of this application under section 19 of the Administrative Tribunals Act 1985, Sri Om Prakash Singh, the applicant requests to set aside the impugned order of termination of his service and to grant him subsequent benefits.

2. The applicant was duly selected and appointed in an existing vacancy of the Extra Departmental Agent, Branch Post Master at Naubatpur vide letter of the appointment dated 11.12.1986 (Annexure-1). Accordingly the applicant joined the service on 19.12.1986. He was continuously functioning on the said post since the aforesaid date to the satisfaction of his officers without any complaint. His service was subsequently terminated vide letter as (Annexure No.2) w.e.f. 20.10.1987/2.11.1987. The termination order purports to have been made under Rule 6 of the Extra Departmental Agent (Conduct and Service) Rules, 1964.

3. The learned counsel for the applicant contends that the service of the applicant has been terminated as the authority concerned found something wrong with the income

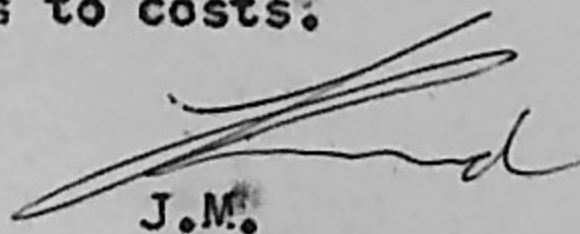
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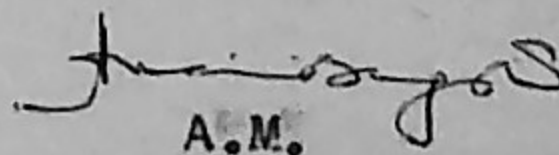
certificate produced by the applicant at the time of entry in the service. From the counter-affidavit, it is seen that the allegation made in the application is substantially correct. The services of the applicant were terminated on account of the falsity detected by the authority concerned in the income certificate in respect of the applicant.

4. It has been held in a number of cases that the Rule 6 of the Extra Departmental Agent (Conduct and Service) Rules, 1964 can not be applied to cases where the services of the employee are to be terminated on account of his misconduct and as a penalty. In such cases, the correct course of action for the authority to adopt would be to invoke Rule 8 of the said Rules and proceed accordingly. When termination order is simpliciter, this Tribunal has the power to go in to the facts of the case and see whether the termination of service is in fact, a punishment or not. In the instant case, there can be no doubt that the applicant's services have been terminated for no other reason than the fact that the income certificate was found on verification to be false.

5. In the result, the termination order is hereby set aside. The applicant will be deemed to be continued in service. The respondents are at liberty to initiate proper action in accordance with the Rules.

6. In the circumstances of the case, there is no order as to costs.


J.M.


A.M.

Allahabad, 29 October, 1991.

(RKA)