

AB  
(10)

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD  
O.A.No.1156 of 1987

K.R.Pandey ... Applicant

Versus

Union of India & others ... Respondents

Hon. Mr. Maharaj Din -Member (J)

Hon. Mr. V.K.Seth -Member (A)

(By Hon. Mr. V.K.Seth - AM)

In this application under section-19 of the Administrative Tribunals Act, 1985, the applicant who is an Ex-EDDA Shankerpur Basti Post Office, has prayed for quashing of order dated 4-11-1987 passed by the Supdt. of Post Offices Basti Division for quashing the appointment of the applicant and appointing respondent no.3 Shri Bhagwat Prasad in his place. He has also prayed for restoration of his service and to be treated in continuation of his previous service. The respondents have resisted the claim of the applicant inter alia on the following grounds:

(1) That Shri Bhagwat Prasad Dubey, respondent no.3 represented against the order of his discharge and on his representation the matter was reviewed and it was revealed that the appointment which was given to the petitioner was not as per rule and was therefore quashed.

(2) That the Supdt. Of Post Offices is empowered to scrutinise the cases of appointment made by the Sub-Divisional Inspector and as such the S.P.O's Basti reviewed the appointment and terminated the services of the applicant under rule-6 of the E.O. Agents (Conduct And



AS  
12  
(11)

Service Rule) 1964.

2- We have carefully gone through the record of the case and the arguments advanced by the learned counsels for the parties during hearing.

3- Admittedly, the applicant along with 7 others was addressed by the S.D.I.(Post) Basti South vide his letter dated 9-3-1987 (Annexure A-2) in pursuance of the nominations received from the Employment Office, Basti for selection for the post of EDDA Shankerpur and was also appointed EDDA Shankerpur provisionally vide his order dated 7-8-1987 (Annexure A-3). The order of appointment inter alia stated that the applicant was appointed with immediate effect subject to the verification of his character and antecedents from police and that his appointment shall be in the nature of a contract and that he shall be governed by the E.D. Agents (Conduct and Service Rules) 1964. It is also not in dispute that while he was appointed as EDDA on 7-8-1987 his appointment was quashed vide order of Supdt. of Post Offices dated 4-11-1987 (Annexure A-4). With ~~xxx~~ these brief facts, we now proceed to examine the validity of the impugned order dated 4-11-1987. For this purpose, it would be necessary to consider the relevant provisions of the E.D. Agents (Conduct and Service Rules) 1964. Rule-6 reads as under :

"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



:3:

by the appointing authority at any time  
without notice."

It is noticed from this provision that in case an employee has not rendered more than 3 years continuous service, his services are liable to be terminated on without notice by the Appointing Authority. As for the appointing authority the same as per schedule given under rules ~~are~~ under :

<u>Category of Posts</u>	<u>Appointing Authority</u>
1-Extra Departmental Sub-Post Master	Officer-in-Charge of the Division  Deputy Presidency Postmaster;Gazetted Postmaster including a Gazetted Sub-Postmaster incharge of a Town Sub-Office,Postmaster in Higher or Lower Selection Grade (in his own office)except a Postmaster in charge of a Town Sub-Office,Inspector of Post Offices/ Assistant Supdt.of Post Offices;(in all other offices).
2-Extra Departmental Branch PostMaster	
3-Extra Departmental Messenger	
4-Extra Departmental Delivery Agent	
5-Extra Departmental Mail Carrier or Runner	
6-Extra Departmental Packer.	
7-Extra Departmental Stamp Vendor	
8-Extra Departmental Chowkidar	
9-Extra Departmental Mail Peon	
10-Extra Departmental Letter Box Peon	

From the entries in the schedule, it is clear that the Appointing Authority of EDDA is a Inspector of Postoffices/ Assistant Supdt.of Post Offices. Let us know examiner the appointment order dated 7-8-1987 issued by the S.D.I.Posts and the impugned order dated 4-11-1987 issued by the Supdt. Post Offices in the context of the above provision. It is noticed that the appointment order has been issued by the Appointing Authority whereas the order quashing the punishment has been issued by the Supdt.Post Offices who is not himself Appointing Authority as per schedule under the rules



13

4:

but an authority superior to the Appointing Authority.

4- During the course of the arguments and also in the counter affidavit, it has been asserted that the impugned order is an order of termination under rule-6. On a reading of the same, however, we do not find any support for the same as it neither mentions rule-6 nor the expression 'termination' and has not been even issued by the Appointing Authority who alone is competent to issue an order of termination under rule-6. In their counter, the respondents have cited an order dated 11-11-1967 but the same has not been annexed with the counter nor the same was produced at the time of hearing to demonstrate that a proper termination order was issued by the Competent Authority under rule-6.

5- Apart from the above, even if, we were <sup>to</sup> examine the merits of the order of the Supdt. Post Offices, it is noticed that the impugned order mentions inter alia that the schedule caste candidate was ignored and the applicant is not local and resident of 1½ k.m. away from the post offices. As far as this aspect is concerned, relevant provision of the rules mentions as under:

(ii) ED Mail Carriers, Runners and Mail Peons should reside in the station of the main post office or stage wherefrom mails originate/terminate, i.e. they should be permanent residents of the delivery jurisdiction of the post office.



:5:

(iii) ED Agents of other categories may, as far as possible, reside in or near the place of their work (Letter No. 5-9/72-EL Cell, dated 18-8-1973 and 43-312/78-Pen, dated 20-1-1979, stand modified to this extent).

the  
Obviously rules do not make it obligatory on the part of EDDA to be a local person residing in the village where the post-office is located. Again the appointment of the respondent no. 3 in preference to the applicant in no way supports the candidature of schedule caste candidates as contended in the impugned order.

6- In view of the foregoing discussion, the application succeeds and we quash the impugned order dated 4-11-1987 of the respondents. The applicant shall be restored to the post of EDDA Shankarpur. His past intervening period from the date of his relief vide order dated 4-11-1987 till the date of his rejoining as EDDA will be counted towards his service as EDDA though he will not be paid for this period as EDDA on the ground of 'no work no pay'. In the circumstances of the case, there will be no order as to costs.

MEMBER (A)

MEMBER (J)

Dated: 10-9-93

(IS PS)