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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration O.A.No.866 of 1988

Basiruddin

...

Applicant

Vs.

Sr. Superintendent Posts, Jhansi
and another

...

Respondents.

Hon.G.S.Sharma, JM
Hon.K.J.Raman, AM

(By Hon.G.S.Sharma, JM)

In this Original Application u/s.19 of the Administrative Tribunals Act XIII of 1985 the Applicant has prayed that in case the termination of his services under letter dated 18.11.1977 issued by the Respondent no.1 is found to have been issued under Rule 6 of the Extra Departmental Agents (Conduct and Service) Rules (hereinafter referred to as the EDA Rules) the Respondents be directed to afford him alternative job and in case it is found to have been made for any misconduct, the same be set aside being violative of Art.311(2) of the Constitution of India.

2. The relevant facts of this case in brief are that the Applicant had worked as ED Mail Peon and Packer at Bijauli and Bhattagaon in Distt. Jhansi from 8.4.74 to 12.4.1976 and as ED Sub Post Master in Bhattagaon from 13.4.1976 till he was put off duty on 25.8.1977 on account of his alleged involvement in some cases of embezzlement of Govt. money. Two FIRs were also lodged against the Applicant by the Superintendent Posts, Jhansi but after investigation the Police submitted final reports on 31.1.1978 and 5.3.1979 respectively in respect thereof which were accepted by the Magistrate concerned. The disciplinary inquiry was also initiated against the Applicant and he was served with a charge sheet dated 1.9.1979 but the said proceedings were dropped by the Respondent no.1 on 18.11.1987 and on the same day by passing the impugned order, copy annexure A-3, he terminated

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-ed the services of the Petitioner w.e.f. 28.2.1978 due to the upgradation of the departmental Sub Post Office into departmental Post Office Bhattagaon.

3. The Applicant had preferred an appeal against the termination of his services on 26.12.1987 but when he received no response, he filed this petition with the allegations that his termination from service is bad as he was not given an opportunity of hearing before terminating his services and in case the order of termination was passed under R.6 of the EDA Rules, the Applicant is entitled to absorption on some alternative job.

4. The Respondents have contested the case and in the Counter Affidavit filed on behalf of the Respondent no.1 it has been stated that on the report that the Applicant had committed several frauds he was put off duty vide order dated 22.8.1977 by the Sub Divisional Inspector Jhansi. The said order was confirmed by Respondent no.1 on 25.8.1977. After receipt of the final report, on the cases against the Applicant, he was charge sheeted under the EDA Rules on 1.9.1979 but the said charge sheets were withdrawn and the proceedings against the Applicant were dropped on 18.11.1987 when it was revealed that the documents on which reliance was placed on the charge sheet was handed over to the Police and has been lost from it. In the meantime, Bhatgaon Post Office was upgraded from Extra Departmental Sub Office to the Departmental Sub Office w.e.f. 28.2.1978 and as such, the services of the Applicant were no more required and there being no post for him, his services were terminated after dropping the disciplinary proceedings against him. The services of the Applicant were terminated in view of administrative exigency and he is not entitled to any relief in this case.

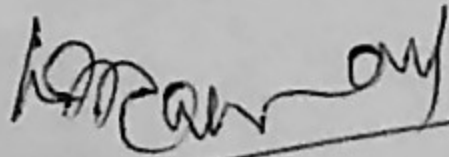
6. The short point arising for determination in this case is whether the services of the Applicant could be terminated in this summary ~~in~~ manner by the Respondents.

The Applicant has impliedly admitted in his Petition that his services could be terminated under rule 6 of the EDA Rules as in that case his prayer is only for alternative job. His other prayer is that in case his services are shown to have been terminated on account of any misconduct the order of termination is hit by Art.311(2) of the Constitution. In view of the pleadings of the parties, stated above, it is not the case of any party that the services of the Applicant were terminated on account of any misconduct committed by the Applicant and as such, the question of considering his alternative case does not arise at all. As the Applicant admits that his services could be terminated under rule 6 it has to be seen whether he is entitled to an alternative job. The instructions issued by the Postal Department by the D.G P&T letter dated 18.5.1979 provide that efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons if at the time of discharge they had put in not less than 3 years service. In such cases, their names should be included in the waiting list of ED Agents discharged from service prescribed in DG P&T letter no.43-4/77-Pen dated 23.2.79. The Applicant has not produced the letter of his appointment to show that he was appointed provisionally so as to establish that the letter dated 18.5.79 of the DG P&T relied upon by him is applicable to his case. It further appears from his rejoinder that the Applicant

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had worked as ED Agent in 3 different categories in three Post Offices. The post of ED Agent is not transferable and as such, we are unable to say whether the Applicant had completed the service of 3 years continuously as ED Agents before he was put off duty. However, we do not want to decide this question finally and leave it for consideration by the Respondents and it will suffice to say that after receiving a copy of this order, the Respondents shall consider the case of the Applicant in the light of DG P&T letter no. 43-4/77-Pen dated 18.5.79 and in case he is found entitled to an alternative employment, they shall take the suitable steps accordingly within a period of 3 months. The Applicant is not entitled to any other relief.

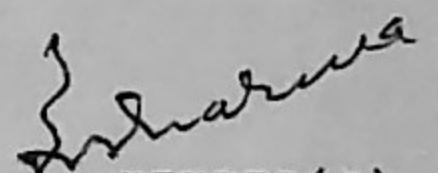
6. The Petition is disposed of accordingly without any order as to costs.



MEMBER(A)

Dated: Aug. 8 1989

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MEMBER(J)