

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

(A2)
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Original Application No. 1271 of 1988

Lallo Raja Singh

... Applicant.

Versus

Union of India & Others

... Respondents

HON'BLE MR. MAHARAJ DIN, MEMBER (J)
HON'BLE MISS USHA SEN, MEMBER (A)

(Hon'ble Miss Usha Sen- AM)

The applicant of this O.A. has challenged the order dated 6-10-88 (Annexure-I) terminating his services as Packer Group 'D' under rule-5 of CCS(TS) Rules 1965.

2- The applicant had been working as Branch Post Master in the Post Office at Sharwas Kalan (Annexure-2) since 1968. On 14-6-87 he appeared for the departmental examination for appointment as ^a regular Group 'D' employee. He passed in the examination and was appointed as a Packer at Talbehat, Distt. Lalitput w.e.f. 31.8.87. On receipt of the aforementioned order of termination dated 6.10.88 he sent a representation dated 25.10.88 to the Senior Supdt. of Post Offices, Jhansi Division, who vide his order of 4.11.88 directed the S.D.I. Talbehat Sub-Division to keep the termination order in abeyance, ^{as} the case was being inquired into. However on 10.11.1988 the S.D.I. Talbehat Sub-Division issued the order stating that his services would be deemed to have been terminated w.e.f. 7.11.88 as no appeal was permissible under Rule-5(i) of the CCS(TS) Rules, 1965 and so the Senior Superintendent of Post Offices had no jurisdiction to stay the operation of the termination order of 6-10-88 supra. The applicant

has inter alia, argued that without giving him a show cause notice and an opportunity for hearing his services could not have been terminated.

3- The respondents have stated in their counter that the age limit for appearing in the departmental examination held on 14.6.1987 was 45 years as on 1.7.87. The applicant had shown his date of birth in the application for this examination as 1.11.44 which was converted by the SDI(P) as 2-9-42 and as such he was allowed to appear in the examination. Later when the first page of his service book was to be filled he was asked to submit proof of his date of birth. He submitted a photocopy of the certificates issued by the Head Master, Primary School, Sarwabs Kalan. It was seen from these certificates that there was an overwriting in the date of birth. On enquiry made by the respondents the Head Master confirmed after verifying from the school register that his date of birth was 2.1.42. Not only this, when the applicant had appeared in the departmental examination in 1979 his date of birth was correctly shown as 2.1.42. They have stated that the petitioner had thus cheated the department by mentioning a wrong date of birth in the application as well as by submitting forged documents in proof of his date of birth. As such his services were terminated under rule-5 (2) Supra.

4- It would be evident from the narration made above that the termination was not in fact a termination simpliciter but termination on account of misconduct. As such it was incumbent on the part of the respondents to have initiated proceedings under the Discipline and Appeal Rules by giving a show cause notice and holding an enquiry as provided in the rules. We, therefore, set aside the impugned order dated 6.10.88

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and the later order of 10.11.1988 of the S.D.I. Talhebat, terminating the services of the applicant w.e.f. 7.11.1988 and direct the respondents to hold an enquiry under the CCS(CCA) Rules 1965. The applicant shall be deemed to be continuing in service from the date of his appointment as a Packer Group 'D' on 31.8.87 till a fresh order, if any, is passed terminating his services after following the proceedings under the CCS(CCA) Rules 1965. He shall also be entitled to the benefit of notional fixation of pay at the appropriate stage ^{on this basis} on his resuming duties as Packer. He may not be paid back wages for the period he had not worked after his termination w.e.f. 7.11.1988 unless any part of this period is regularised by grant of leave with pay/half pay as due to him. With this order the application is disposed of. Petition is allowed to this extent. There will be no order as to costs.

Usha
MEMBER (A)

Shiv
MEMBER (J)

DATED: Allahabad May 13th 1994.

(IS PS)
