

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

O.A. No:
T.A. No:

601/89

DATE OF DECISION: 23-2-94

Nand Lal PETITIONER

----- ADVOCATE FOR THE
PETITIONER

VERSUS

U.O.I 2192 RESPONDENTS

----- ADVOCATE FOR THE
RESPONDENTS

C O M M

The Hon'ble Mr. T. L. Verma, Jm.

The Hon'ble Mr. K. M. Thakur, Am.

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to all other Bench ?

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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 601 of 1989

Nand Lal Applicant.

Versus

Union of India & Ors. Respondents.

Hon'ble Mr. T.L.Verma, Member-J

Hon'ble Mr. K.Muthukumar, Member-A

(By Hon'ble Mr. T.L.Verma, J.M.)

This application under Section 19 of the Administrative Tribunal's Act has been filed for quashing the order dated 24.6.1989.

2. The facts of the case in brief are that the applicant was appointed on the post of Extra Departmental Delivery Agent (EDDA for short)-cum-E.D.M.C. on 26.9.1988. His appointment was made after his name was sponsored by the Employment Exchange along with 3 others and after making necessary inquiries in connection with his place of residence, source of income, educational qualification etc. vide appointment letter (Annexure-1). The applicant joined as EDDA-cum-EDMC on 26.9.1988 vide Annexure-4. He performed his duties as EDDA-cum-EDMC to the satisfaction of his superior authorities. It is stated that all of a sudden, his services have been terminated vide order dated 24.6.1989 (Annexure, 1-A) without holding any inquiry or serving show cause ^{notice} on him, in violation of principles of natural justice. The impugned order has been assailed as being arbitrary, and discriminatory and void-abinitio.

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3. The claim of the applicant has been resisted by the respondents. It has been averred in the Counter Reply that after the appointment of the applicant, information furnished by him were verified and it was found that he was not the resident of the village of the Branch Post Office in which he was appointed, ~~was situated and as such~~ the appointment being against Rules, the same was cancelled by the competent authority in exercise of his power to review under Rule 16 of the Extra Departmental Staff Service Rules.

4. In view of the pleadings of the parties, the first question that falls for consideration is whether holding of an inquiry in cases of termination of service under Rule 6 was necessary. According to the provisions of Rule 6, service of an employee who has not already rendered more than 3 years continuous service from the date of his appointment, shall be liable to termination by the appointing authority at any time without notice. The applicant was appointed on 5.9.1988 and his service was terminated on 24.6.1989. The applicant, it would thus appear, had not completed 3 years service, ~~on~~ ^{therefore,} the date, his service was terminated. He was, in the normal course not entitled to any notice before termination of his services. The learned counsel for the respondent submitted that on verification by the competent authority, it was found that the applicant had given incorrect information with regard to his place of residence and as such the appointment was irregular which the competent authority was empowered to cancel. It is thus apparent that the removal of the applicant from the service ^{was} on the

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allegation that he had furnished wrong information regarding his place of residence. It is well settled that in a case, where the Rules provide for termination of service without notice, the Courts would generally not interfere, but, where on lifting the veil, it transpires that the removal is with stigma, the Courts should insist for inquiry in which opportunity^{to} be given to the person concerned to defend himself.

5. In this connection, it may also be noticed that it is the responsibility of the competent authority to be satisfied that the candidates sponsored by the employment exchange possess all the eligibility conditions before issuing call letters asking them to appear for the test. If, after such an inquiry, appointments are made, then, in the normal course, it is expected that before terminating the service on the ground of giving incorrect information, opportunity will be given to the person to explain his position. It is not in dispute that the service of the applicant has been terminated without giving him an opportunity at any stage during the inquiry said to have been held for verifying the information given by the applicant before the issue of the impugned order.

6. In view of the above and having regard to the fact that he was appointed after his selection in accordance with Rules and that he was working for more than one year and that he was terminated with the stigma that he had furnished incorrect information, he was entitled for an opportunity to defend himself. This not having been done, we find a clear violation of the

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principle of natural justice resulting in failure of justice.

7. In the result, this application is allowed and the order dated 24.6.1989 terminating the service of the applicant is quashed. The respondents are directed to reinstate him forthwith. He will, however, not be entitled to back wages. It will be open to the respondents to initiate inquiry against the applicant after serving chargesheet and thereafter, pass appropriate order in accordance with law.


Member-A


Member-J

Allahabad Dated: 22nd August, 1994

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