

(6)

(1)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 656 of 1990

Allahabad this the 13/12 ^{Dec} Day of Nov 1994

Hon'ble Mr. S. Das Gupta, Member 'A'
Hon'ble Mr. Jasbir S. Dhaliwal, Member 'J'

Ram Dhani, S/o Shri Raja Ram A/a 34 years
Ex Branch Post Master Jakha via Madaripur
District Jalaun.

Applicant

Shri R.K. Tewari

Versus

1. Sr. Supdt. Posts, Jhansi
2. Director Postal Services O/O P.M.G. Kanpur
3. Union of India, through Secretary, Ministry of Communications, New Delhi.

Respondents

By Advocate Shri N.B. Singh

O R D E R

Hon'ble Mr. Jasbir S. Dhaliwal, Member 'J'

The petitioner has come to this Court challenging his termination of services vide Annexure A-1 dated 23.11.1989 from the post of E.D.B.P.M., Jakha to which post he was appointed on the retirement of one Shri Ram Swaroop Tripathi. He pleads that this order has been passed by the respondent no.1 under Rule 6 of the E.D.A.(C & S Rules, 1964).and no reason whatsoever has been stated for passing this order. Under this rule, services could be terminated either for unsatisfactory service or for administrative reasons in connection with the conduct of an employee. He claims that he had never given any opportunity for any complaint nor ^{was} he ever warned or reprimanded for any unsatisfactory work. He was appointed after sponsoring his name through employment exchange and he is an intermediate passed in second division with

income required for the job. He has filed Annexure A-2 to A-3 in support of his pleas. He pleads that the impugned order has been passed in violation of 'Rule 130' of P&T manual volume III and Article 311(2) of the Constitution of India. He, thus, prays for setting aside the impugned order and for directing the respondents to put him back on his post with retrospective effect.

2. The respondents in their reply have pleaded that names of candidates have been sponsored through employment exchange which were received on 12, September, 1988, though these were required to reach the office of the respondents by 11 September, 1988. They all were asked to submit their application by 3rd October, 1988. The employment officer, however, sent another list of 3 more candidates on 19th September, 1988 through Annexure C.A.-3. The respondents were not required to consider the second list and should not have considered the same but, under a mistake they wrongly prepared a comparative chart of all the candidates from both the lists on the basis of particulars submitted by each applicant and ultimately the applicant was selected and appointment letter dated 13.11.1988 was issued to him. After certain period under administrative exigencies letter dated 23.11.1989 has been issued under Rule 6 of the Extra Departmental Agents(C & S, Rule, 1964). The respondents are under no obligation to record any reasons for exercising this power since the applicant has not completed 3 years of service and order under the said rule is legal. Since his order of appointment

(18)

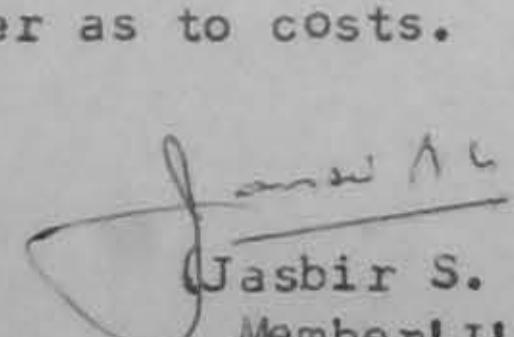
// 3 //

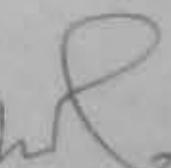
(3)

has not been cancelled, thus, there is no application of Rule 30 of P & T manual. They have, thus, prayed for dismissal of this petition.

3. A perusal of Annexure A-1 shows that it is an order passed under Rule 6 of the Extra Departmental Agents(C & S, Rule 1964). The respondents are well within their jurisdiction to pass such an order on administrative grounds unless an incumbent has completed 3 years of service. The petitioner had worked for less than one year from the date of passing of this order. The order does not show or indicate anything which may be attached a stigma to the name of the applicant. The belief of the respondents that under the departmental instructions, they could not have considered names of the candidates of the second list, ^{as} it had reached them after the expiry of 30 days from the date of requisition, may not be such a matter as would ^{have} necessitated the termination of services. All the same exercise of the power by the employer and this Court cannot substitute its opinion in place of the employer. We are satisfied that the impugned order has been passed without any malafides and without any stigma attaching to the name of the applicant. No legal infirmity is found in the said order.

4. The petition is, therefore, found to be without any merits and is dismissed. No order as to costs.


Jasbir S. Dhaliwal (S. Das Gupta)
Member 'J'


S. Das Gupta
Member 'A'