

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad, this the 26th day of May, 2000

CORAM : Hon'ble Mr. S. Dayal, Member (A)

Hon'ble Mr. Rafiq Uddin, Member (J)

ORIGINAL APPLICATION NO. 665 of 1992

Sri Pramod Kumar Dwivedi, son of Sri Ram
Deen Dwivedi, resident of Nainpur, P.O. Bir Pur,
Kanpur Dehat.

... Applicant

C/A Shri Vijai Bahadur

Versus

1. Union of India, through Secretary, Ministry of Telecommunication, New Delhi.
2. Sub Divisional Inspector, Department of Posts, Bilhaur, Kanpur Dehat.
3. Sri Krishna Kumar Nigam, Sub Divisional Inspector, Department of Posts, Bilhaur, Kanpur.

... Respondents.

C/R Km. Sadhna Srivastava

O R D E R

(By Hon'ble Mr. S. Dayal, Member (A))

The applicant has filed this O.A. challenging the impugned order dated 25.04.1992. A direction has been sought to the respondents to declare the applicant as continuing in service.

2. The case of the applicant is that he had applied for the post of EDMP Asalatganj and was subsequently appointed as EDMP at Asalatganj Post Office

by letter dated 04.01.1991. He was, however, required to handover charge to one Subodh Kumar, a stranger to the Department on 20.04.1992. A letter dated 25.04.1992 was sent to Employment Officer Kanpur requesting him to recommends the names of suitable candidates for appointment of ED Mail Peon at Asalatganj, Kanpur. It is stated that the services have been terminated on instruction of Shri K.B.L. Sharma Superintendent Post Offices Kanpur Dehat who bears illwill against Shri M.P. Dwivedi the then S.D.I. A fresh requisition was again sent for filling up the post of EDMP. The applicant claims to be entitled to protection of Article 311 and states that his work was satisfactory and termination order was bad in law. We have seen counter reply of respondents in which it has been stated that the applicant was not eligible because he was a resident of village Nainpur post Birkun which was not mentioned in paragraph 3 of the requisition sent to the Employment Exchange. It is also contended that one Shri Shushil Kumar Singh was also a candidate but he had refused to join by his letter dated 26.10.1990. However, Overseer Bilhaur had not reported that Shri Shushil Kumar Singh had withdrawn his name in his report dated 19.12.1990.

3. It has been denied that there was any illwill between Superintendent of Post Offices and Sub-Divisional Inspector as alleged by the applicant.

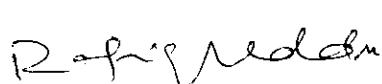
4. The learned counsel for the respondents states that since the order of termination dated

25.4.1992 had been passed under Rule 6 of EDA conducted in Service Rule 6, it cannot be challenged since the applicant had worked for less than three years. He was not entitled to inquiry under Rule 8 in a situation where termination was as simplicitor and made on administration grounds.

5. We have seen the requisition sent to the Employment Exchange on 17.08.1990 in which it has been mentioned that the applicant should be a resident of Asalat Ganj or Birhun or any village coming within the delivery jurisdiction of EDMP, Asalat Ganj. We have seen Annexure 4 to the O.A. which is requisition sent on 25.4.1992 after termination of the applicant. This requisition is admitted by learned counsel for the respondent also to be in order to filling up post falling vacant on account of termination of the applicant. It is mentioned in this regularisation that the post of EDMP Asalat Ganj, Birhun Line was likely to fall vacant and names were invited from the Employment Exchange. It was mentioned in paragraph 3 of the Annexure 4 that the candidate should be a resident of Birhun Village or delivery jurisdiction office. Under the circumstances the reason mentioned by learned counsel for the respondents in the counter reply cannot be the genuine reason for declaring the candidature of the applicant to be non-eligible. There is no denial of the fact that village Nainpur fell within the delivery jurisdiction of village Birhun which has specifically been claimed by the applicant in para 4-C of his rejoinder. The respondents themselves in para 3-C of their C.A.

state that the applicant was a resident of village Nainpur post Birhun. As far as the second ground of the applicant not being the most meritorious candidates is concerned, the respondents in para 3 F have said that Shushil Kumar Singh was more meritorious than the applicant and he was said to have withdrawn his candidature while the Overseer to Bilhaur had not reported that Shri Sushil Kumar Singh had withdrawn his candidature. If such be the case, it should have been ascertained by asking Shri Sushil Kumar Singh as to whether he remained a candidate or had actually withdrawn. In case he remained a candidate the post should be given to him by terminating the service of the applicant. In case Shri Sushil Kumar when addressed a letter confirms his refusal to join, the applicants should be allowed to continue on the post. Subject to this ^{the} impugned order dated 25.4.1992 and the requisition dated 25.4.1992 are set aside.

There shall be no order as to costs.


Member (J.)


Member (A.)

S.P.