

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

(AV)
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Original Application No. 1170 of 1992

Praveen Kumar Applicants

Versus

Union of India and others... ... Respondents

Hon'ble Mr. S. Das Gupta, Member A
Hon'ble Mr. T.L. Verma, Member J

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

This application under section 19 of the Administrative Tribunal Act has been filed for issuing a direction to the respondents not to cancel the appointment of the applicant and to pay him back and future wages from the date of cancellation of the appointment.

2. The applicant, alongwith five others, was appointed as an Extra Departmental Agent to work as Stamp Vendor in the Railway Mail Services vide letter dated 5.2.1992 (Annexure 1). By order dated 11.2.1992 (Annexure 2) the Superintendent Railway Mail Service S.S. Division Saharanpur directed the Head Record Officer to cancel the order of the appointment of EDAS issued on 5.2.1992 without prejudice to initiation of action for fresh appointment. The respondents no. 2 pursuant to the above direction cancelled the appointment of the applicant by letter dated 11.2.1992 (Annexure 3).

3. The impugned order has been ~~assailed~~ ^{assailed} on the ground of being arbitrary and against principle of natural justice.

4. Learned counsel for the respondents has submitted that appointment has been cancelled because a number of complaints of malpractice in the matter of appointment of EDA were received and that on preliminary enquiry some serious irregularities were noticed. The learned counsel appearing for the applicant has controverted the allegation and has stated that the appointment is valid as the same has been made after following prescribed procedure. It has been stated that the appointment could not have been cancelled without giving opportunity to the applicant being heard and as such it was submitted the impugned order is illegal and without jurisdiction. In support of his arguments the learned counsel has placed reliance in Shrawan Kumar and Others Versus State Bihar and others reported in Suprem Court (Supp 1) SCC) Cases 1991 page 330. Supreme Court, in the said decision, has held that holders of appointment order are entitled to opportunity of hearing before cancelling their appointment and that cancellation order without complying with rules of natural justice is liable to be set aside.

5. It is not in dispute that the appointment of the applicant has been cancelled and that the cancellation order, has been passed without complying with rules of natural justice. This being so and regard being had to the decision of the Supreme Court cited above, We set aside the impugned order of cancellation dated 11.2.1992..

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6. In view of the foregoing conclusion we direct the respondents to give an opportunity of hearing to the applicant and thereafter give ~~a~~ ^{the} finding whether the applicant was validly appointed as Extra Departmental Agent. As the applicant has not joined he shall not be entitled to salary.

7. There will be no order as to cost.

J. Bhawna
Member (J)

W.P.
Member (A)

Allahabad,
Dated 16th March 1994.

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