

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDL. BENCH

ALLAHABAD

DATED : THIS THE 6th DAY OF JANUARY, 1997

Hon'ble Mr. S. Das Gupta AM  
CORAM : Hon'ble Mr. T. L. Verma JM

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ORIGINAL APPLICATION NO. 1319/92

Ram Niwas s/o Late Lakhpatt Singh  
r/o Village & Post Hirauni (Babrara)  
Ex. B. P. M. Hirauni (Babrara),

District Budaun.----- Applicant

C/A Sri R. K. Tewari.

Versus

1. Superintendent Posts, Budaun.
2. Chief Post Master General,  
U. P. Circle, Lucknow-1
3. Union of India through the Secretary,  
Ministry of Communications,  
New Delhi-1----- Respondents

C/R Sri S. C. Tripathi

ORDER

By Hon'ble Mr. S. Das Gupta AM

This application has been filed under section 19 of the Administrative Tribunals Act, 1985, challenging the order dated 6.9.1991 (annexure A-1) by which the services of the applicant as E.D.B.P.M. were terminated.

Wf

2. Admitted facts in this case are that the applicant was appointed on the post of E.D.B.P.M. Hirauni, District Budaun by letter dated 28.3.1990 on a provisional basis. He continued to function as such until by the impugned order dated 6.9.1991 his services were terminated. under Rule 6 of E. D. Conduct and Service rules 1964.

3. That respondents have stated in the counter affidavit that <sup>on</sup> a reference made to the District Magistrate, the latter informed that the applicant was involved in several criminal cases and therefore, it would not be in the interest of State to retain the applicant in service and accordingly his services were terminated. The applicant on the other hand has annexed subsequent letter dated 5.12.1991 by which the District Magistrate had informed the Postal authorities that all the cases against the applicant have ended in acquittal.

4. There is nothing in the Counter affidavit to indicate that the applicant's appointment was made subject to the satisfactory police verification report. It would, therefore, appear that he was appointed only after satisfactory police verification report was obtained. The report of the District Magistrate was received only after a subsequent reference being made, the respondents having come to know that the applicant was involved in certain criminal cases. In such a situation, it was open to the respondents to remove the applicant from service in case, there was conviction or to put him off duty pending finalisation of the criminal proceedings. In such a situation, however, the respondents could not have taken resort to the

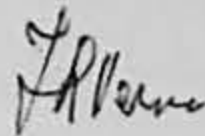
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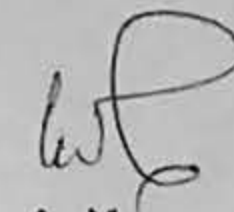


to the provision under Rule 6 of E.D. Conduct and service rules and terminated the services of the applicant. In that view of the matter, the order dated 6.9.1991 is not tenable in law. ~~Merely~~ The very basis of this order was knocked out subsequently by the report of the District Magistrate that the applicant has been acquitted of all the criminal charges.

5. Learned counsel for the respondents brought to our notice that before the applicant's services were terminated, another person was appointed in his place and he has been working on the post, ~~for~~ the last 5 years or so. This person has not been impleaded by the applicant as respondent.

6. In the aforesaid circumstances, we dispose of this application with the direction to the respondents to appoint the applicant on any other vacancy of E.D.B.P.M., which exist, at present and if no vacancy exists now, he may be appointed against the next available vacancy of E.D.B.P.M. in any branch post office. Parties to bear their own costs.

  
J.M.

  
A.M.

SQI