

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A.No./T.A.No. 1348 of 1992

Date of decision 12/5/95

Lal Yogendra Pratap Singh, Applicant(s)

C/A Shri R.P.Singh, Advt. COUNSEL for the
Applicant(s)

Versus

Union of India & Others. Respondent(s)

Shri N.B.Singh, Sri Bhagwati Prasad,
Sri C.P.Yadav, Sri Satish Chandra Counsel for the
& Sri R.K.Tiwari, advocates. Respondent(s)

C O R A M

Hon'ble Mr. S.Dayal FFC/Member(A)

Hon'ble Mr. S.K.Agrawal Member (J)

1. Whether Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporters or not ? yes
3. Whether their Lordship wish to see the fair yes copy of the judgment ?
4. Whether to be circulated to all Benches ? No


(SIGNATURE)

MANISH/

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO.1348 OF 1992

Allahabad, this the 12th day of May, 1999

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

Lal Yogendra Pratap Singh,
S/o. Shri Lal Mani Singh,
E.D.B.P.M. Maida,
District Allahabad.

..... Applicant

(C/A. Shri R.P.Singh, Advocate)

Versus

1. Union of India through
the Secretary,
Ministry of Communication Post and
Telegraph, New Delhi.
2. Director Postal Service,
Allahabad.
3. Senior Superintendent Post Office,
Allahabad.
4. Lal Sudhaker Singh,
S/o. Shri Lal Satya Narayan Singh,
R/o. Village and Post Maida,
District Allahabad.

..... Respondents

(C/R. Shri N.B.Singh, Shri Bhagwati Prasad, Sri C.P.Yadav,
Shri Satish Chandra, and Sri R.K.Tiwari, Advocates)

ORDER

(By Hon'ble Mr. S.K.Agrawal, Member(J))

In this original application applicant makes a
prayer to quash the order of termination dated 14-9-92
passed by respondent No.3 and to treat the applicant
continued in service with all consequential benefits.

contd.../2p

2. Facts of the case as stated by the applicant are that to fill up the vacancy for the post of EDBPM Maida, Allahabad, respondent No.3 requisitioned the name of eligible candidates from Employment Exchange Allahabad and after scrutiny the applicant's name was approved for the post and he was appointed as EDBPM Maida vide order dated 4-12-91. Thereafter respondent No.4 filed representation before respondent No.2. Respondent No.2 without affording opportunity to show cause to the applicant cancelled the selection and directed respondent No.3 to terminate the services of the applicant. In pursuance of these directions impugned order of termination was passed by respondent No.3. It is stated that order of termination is stigmatic and passed without giving any show cause notice to the applicant, therefore action of respondent No.3 is in violation of Article 14 and 16 of the Constitution of India. Therefore, applicant made a prayer for the relief as mentioned above.

3. In the counter it is admitted that Employment Exchange Officer sponsored the name of the applicant alongwith others. It is stated in the counter that the applicant secured lower percentage of marks in comparison to others and secured the appointment. Thereafter Shri Udai Krishn Srivastava made a representation to P.M.G. on 10-12-91 and Director General Postal Services himself reviewed the matter and directed Senior Superintendent of Post Offices to cancel the appointment on 4-9-92. It is further stated that in pursuance of the directions the appointment of the applicant was cancelled by the impugned order. It is further stated that the appointment of the applicant was void-ab-initio, as such no opportunity of show

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cause was required to the applicant and this original application is devoid of any merit which is liable to be dismissed.

4. Rejoinder was filed. It was reiterated in the rejoinder that the selection of the applicant was done as per recruitment rules and after making full enquiry and verification as the applicant was found most suitable on merit. Therefore termination of the applicant is against the principles of natural justice.

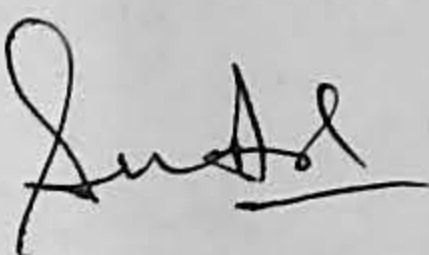
5. Separate counter and rejoinder was filed by private respondent in this case which is on record.

6. Heard the learned lawyer for the parties and also perused the whole record.

7. Learned lawyer for applicant has argued that services of the applicant were terminated without giving him an opportunity of hearing. Therefore impugned order of termination is in violation of principles of natural justice and liable to be quashed.

On the other hand learned lawyer for respondents has submitted that order of appointment in this case was irregular and void-ab-initio, therefore no opportunity of hearing/show cause was required to be given to the applicant before issuing the order of termination.

8. Admittedly the applicant secured less marks in High School Examination in comparison to other candidates who were in the zone of consideration. Therefore, applicant was definitely less meritorious in comparison to other candidates who were in the zone of consideration. Therefore selection of the applicant on the post of EDBPM, Maiba was irregular.



9. Rule 6 of Post & Telegram Extra Departmental Agents (Conduct & Service) Rules, 1964 provides as follows :-

"The services of an employee shall be liable to be terminated by the appointing authority at any time without notice for generally unsatisfactory work within 3 years from the date of appointment or any other administrative ground unconnected with his conduct."

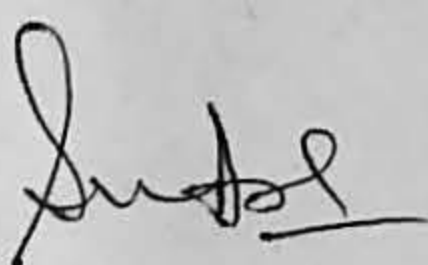
This rule was amended in the year 1993 as under-

"6. Termination of services- (a) The services 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 at any time by a notice in writing given either by the employee to the appointing authority or by the appointing authority to the employee.

(b) the period such notice shall be one month :
Provided that the service of any such employee may be terminated forthwith and no such termination the employee shall be entitled to claim a sum equivalent to the amount of his basic allowance plus Dearness Allowance for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month."

10. There has been a consistent view of the Apex Court of this Country that where selection suffers from irregularity it is not necessary to hear before termination and provision of Article 311(2) do not attract in such case.

11. In case of Doddasiddaiah Vs. Union of India reported in (1993) 6 SLR 474, it was held by the Bangalore Bench of Central Administrative Tribunal that in case of termination of an irregular appointment under rule 6 of ED Agents (Conditions & Service) Rules 1964, there



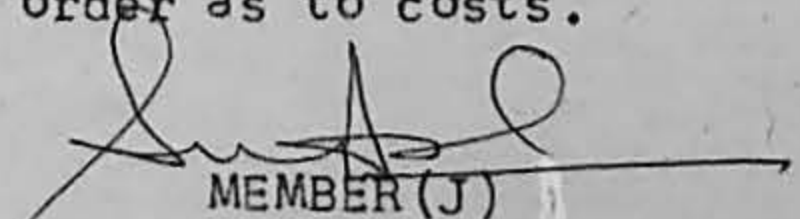
was no need for giving an opportunity of hearing.

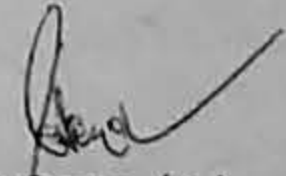
10. In case of State of U.P. Vs. Kaushal Kishore Shukla (1991) 1 SCC 691 Hon'ble Supreme Court held that "a temporary government servant has no right to hold the post. Whenever, the competent authority is satisfied that the work and conduct of a temporary servant is not satisfactory or that his continuance in service is not in public interest on account of his unsuitability, misconduct or inefficiency, it may either terminate his services in accordance with the terms and conditions of the service or the relevant rules or it may decide to take punitive action against the temporary government servant. If the services of a temporary government servant is terminated in accordance with the terms and conditions of service, it will not visit him with any evil consequences."

11. In Superintendent of Post Offices and others Vs. E. Kunhiraman Nair Muliyar 1998 SCC (L&S) 956 it was held by the Hon'ble Supreme Court that termination of the employment of the applicant on administrative grounds is the order of termination simplicitor and it does not cast any stigma on the applicant. It is well settled that such termination will not affect the Article 311 of the Constitution of India.

12. On the basis of above legal position and facts & circumstances of the instant case the order of termination passed by the respondents cannot be said to be arbitrary, illegal and inviolation of principles of natural justice. Therefore applicant is not entitle to any relief sought for.

13. We, therefore, dismiss this original application with no order as to costs.


MEMBER (J)


MEMBER (A)