

(A2/1)

OPEN COURT  
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

DATED: THE 22nd DAY OF APRIL 1998

CORAM: HON'BLE MR. S.DAYAL, A.M.  
HON'BLE MR. S.L.JAIN, J.M.

ORIGINAL APPLICATION NO.1212 OF 1993

Pradeep Kumar son of Sri Mani Ram Gupta,  
resident of village Khera post Office Pilkhuwa,  
district Ghaziabad.

..... Applicant

C/A Shri Rakesh Verma, Adv.

Versus

1. The Union of India through Postmaster General,  
Lucknow.
2. The Superintendent of Posts, Ghaziabad.
3. Sub-Divisional Inspectors (Posts) Hapur  
Su-Division Hapur, Distt. Ghaziabad.

..... Respondents

Shri Amit Sthalekar, Advocate

ORDER

HON'BLE BY MR.S.DAYAL, A. M-

This is an application u/s 19 of the Administrative  
Tribunals Act, 1985.

2. The application has been filed with a prayer for  
setting aside of an order dated 10.8.1993 and direction  
to the respondents to reinstate the applicant with full
- Page 1*

2/2

back wages and other benefits. A further prayer has been made to give directions to the respondents for giving regular appointment to the applicant for the post of E.D. Stamp Vendor with all consequential benefits. The cost of the application has also been claimed.

3. The case of the applicant is that he was regularly appointed on the post of Extra Departmental Stamp Vendor by order dated 4.5.92 and the applicant joined the post in pursuance of the order. This appointment was granted after following the procedure for regular appointment. It is alleged that the services of the applicant were terminated by order dated 10.8.93 and it is also alleged that his services were terminated while the services of a junior Shri Yogesh Kumar, Shri Krishna GMK, Shri Rajvir Singh and Shri Rameshwar Dayal whose dates of appointment <sup>were</sup> after the date of the appointment of the applicant continued to work as Extra Departmental Agents. It is also claimed that the letter of termination was given without payment of any salary for one month for notice period or giving time of one month as notice period, and, therefore, the order of termination as made on 10.8.93 was invalid. The applicability of Rule 6 of Extra Departmental Agent (Conducted and Service), Rules 1964 has also been challenged.

4. The arguments of Shri Rakesh Verma, counsel for the applicant and Shri Amit Sthalekar counsel for the respondent were heard.

5. As regards the first issue respondents have mentioned in their supplementary counter affidavit that two posts of messenger at Pilkhuwa Post Office became surplus due to opening of the telecom centre at Pilkhuwa and diversion of telegraphic work ~~to~~<sup>to</sup> it. The services of the

*[Handwritten signature]*

*[Handwritten initials]*



A2/3

applicant were terminated because he was the junior most Extra Departmental Employee in Pilkhuwa. The applicant has mentioned the persons who were appointed subsequently to the applicant were appointed in <sup>high</sup> ~~branch~~ post offices other than Pilkhuwa. The services of the employees of other post offices would <sup>not</sup> get effected due to reduction of work in Pilkhuwa resulting in reduction in number of posts of Extra Departmental Agents.

6. The learned counsel for the applicant has raised the issue of instructions of Director General, Post & Telegraph in letter No. 43-4/77-Pen., dated 23.2.1979 in which it has been mentioned that the name of the official who is retrenched as E.D. Agent should be kept on the waiting list for one year. The E.D. Agent on the waiting list would have to accept the post offered near his place of residence. The name on the waiting list is to be maintained for one year, and, if he is not absorbed on any other post, his name is to be removed from the list. The fact of maintenance of his name on the waiting list would not confer any right on him, to challenge the order of termination on account of reduction in work.

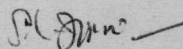
7. Another issue raised is that of non payment of one month's salary in lieu of notice period. The respondents have shown in their counter reply that the salary was sent to the applicant, admittedly on a date later than the date of issuance of the order of termination which was 10.8.93. The salary was remitted to the applicant by M.O. No. 2875 dated 15.10.93 but it was refused. Under such circumstances the applicant <sup>can't</sup> ~~cannot~~ claim that the order be set aside on the ground <sup>that</sup> ~~that~~ one month's salary in lieu of the notice was not paid to him at the time of issuance of order of termination. In this case the order of termination has


Ms 1-

been passed on account of non availability of work to the applicant as he was a junior most in Pilkhuwa post office and the termination was ordered under section 6 of E.D. Agents (Conduct and Service) Rules 1964. Section 6 empowers the respondents to terminate the service of the E.D. employee if he has not worked for more than three years in continuous service by notice in writing or by remittance of one month's basic allowance plus D.A. through M.O. The termination of service in this particular case is justified on account of non availability of work in the local post office and the entitlement of the applicant is only to one month's basic allowance plus D.A., and, in case such payment is not made, he shall be entitled to recover this money from the respondents. The order of termination does not become bad in law merely because the amount of one month's basic salary and D.A. is not remitted along with the termination order. The respondents are, however, directed to keep the name of the applicant. On waiting list as provided if in their letter dated 23.2.79/earlier this concession was not granted to the applicant and offer him such post in the alternative as permissible.

8. We, therefore, find no infirmity in the order of termination and no merit in the applicant's prayer for setting aside the order. The O.A. is, therefore, dismissed.

There shall be no order as to cost.

  
MEMBER (J)

  
MEMBER (A)

Gc