

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT NAINITAL

THIS THE 16TH DAY OF APRIL, 2001

Original Application No.1283 of 1993

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN:K.K.SRIVASTAVA, MEMBER(A)

Mahendra Prasad, son of Shri Purna Nand  
R/o 24/41, Dharampur, Dehradun.

... Applicant

(By Adv: Shri Rajendra Dhobal)

Versus

1. Union of India through the Secretary  
Ministry of Postal and Telecom,  
New Delhi.
2. Post Master General, Dehradun  
Region, Dehradun.
3. Sr.Superintendent of Post Offices  
20, Rajpur Road, Dehradun
4. Sub Divisional Inspector,  
Postal (East), Sub Divisional  
Office, Dehradun.

... Respondents

(By Adv:Ms.Sadhna Srivastava)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this application u/s 19 of A.T.Act1985 the applicant has  
prayed for a direction to the respondents to promote him to the  
post of Post Man in Postal department, Dehradun in view of the  
examination held on 17.5.1992. It has also been prayed that  
the respondents may also be directed to allow the applicant to  
complete his training necessary for joining as Post Man.

  
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The facts in short giving rise to this controversy are that the applicant Mahendra Prasad was serving as Extra Departmental Delivery Agent since 1982. On 17.5.1992 a combined examination for promotion to the regular cadre of Post Man was held at Dehradun. The applicant was declared successful and his name was shown in the panel dated 24.9.1992 at sl.n.l among the general candidates. By order dated 22.10.1992(Annexure 2) he was ~~withheld for~~ <sup>detained for</sup> joining Practical Training at Dehradun. he joined the training course but vide order dated 3.11.1992 he was relieved and was asked to join as Extra Departmental Delivery Agent. The learned counsel for the applicant has submitted that applicant was not given any opportunity of hearing or show cause notice before the order dated 3.11.1992 was passed. It has been submitted that the applicant was forced to write and the writing was procured from the applicant when he was suffering from mental depression for which he received a treatment. Learned counsel for the applicant has submitted that no opinion from the expert was obtained before passing the impugned order. It is also submitted that applicant was put off duty on account of mental condition and the order putting off duty was withdrawn on 8.1.1993.

Ms.Sadhna Srivastava learned counsel for the respondents, on the other hand, submitted that after the applicant was selected and was sent for training, complaints were received that he was not present in the examination on 17.5.1992 and somebody else appeared for him. After complaint was received, an inquiry was made and it was found that there is a difference in writing in the answer books and the handwriting which was obtained from Mahendra Prasad. <sup>on</sup> ~~and~~ <sup>and</sup> the result of the inquiry the complaints <sup>were</sup> found correct and his selection was cancelled and his training was discontinued. Learned counsel has also submitted that in inquiry applicant <sup>had</sup> ~~was~~

participated and there is no violation of principles of natural justice.

We have carefully considered the submissions made by the learned counsel for the parties. However, the undisputed facts are that complaints were received against the applicant by the respondents about which the applicant was never informed. He was not given any show cause notice or opportunity to explain before the impugned order was passed. It cannot be disputed that the impugned order passed against the applicant had serious civil consequence against him and it ought to have been passed after giving him opportunity of hearing, which has not been done in the present case.

The another aspect of the case is that from the material on record it is established that applicant was suffering from Mental depression and nervous break-down when the alleged specimen writing was obtained from him. In such a mental condition he could have written in different <sup>manner</sup> ~~way~~ than his normal writing. In these circumstances also it was necessary in the ends of justice that he should have been given a fresh opportunity. The participation in the inquiry as stated by the learned counsel for the applicant could be for the satisfaction of the department for making up mind to initiate action against applicant but that could not be substitute of the show cause notice and <sup>opportunity of</sup> explanation given to the applicant.

For the aforesaid reasons stated above, the <sup>unlawful</sup> ~~interim~~ order dated 3.11.1992 is quashed. The respondents are directed to hold a fresh inquiry after giving opportunity of explanation to the applicant and it shall be better if the opinion of an expert on handwriting is obtained before ~~his~~ passing the final order. If the applicant is exonerated of the charge, he shall be allowed to join the next training course on the basis of examination held on

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17.5.1992. The OA is disposed of accordingly. There will be no order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: April 16, 2001

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