

8.  
Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 3rd day of May 2000.

Original Application No. 353 of 1993.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Hon'ble Mr. M. P. Singh, Administrative Member.

Keshav Deo Pandey Extra Departmental Branch

Post Master Kolhui, Basti,

District Siddharthnagar.

.....Applicant

C/A Sri A.K. Sinha

Versus

1. Union of India through its Secretary Post and Telegraph Department New Delhi.
2. Director of Postal Services, Gorakhpur Region, Gorakhpur.
3. The Superintendent Post Office, Basti Division Basti.

.....Respondents

C/R Sri C. S. Singh.

Sac

11/2/11

ORDER

9-

Hon'ble Mr. S.K.I. Naqvi, J.M.

1. Sri K. Dev Pandey has impugned order dated 16.9.1992 through which his appeal has been dismissed by respondent no. 3.
2. There is not much dispute in the facts of the case, as they have come up from the pleadings filed on behalf of either sides, which are as under.
3. The applicant was appointed as E.D.B.P.M. since 1.9.1976 while he was <sup>working</sup> appointed as Assistant teacher in Sri Pandiniva Gurukul Mahavidyalaya Dayanand Nagar Kolhui quite before his appointment in the Postal department. It has been mentioned in the application that the working hours of said vidyalayas is 10.00 hours to 16.00 hours and the working hours of Branch Post Office is 11.30 to 14.00 and 14.30 to 17.00 hours respectively. The applicant further goes to mention that on 25.9.1991 he received a letter from the office of Superintendent of post office, Basti division Basti, to the effect that since the working hours of said vidyalaya and the working hours of Branch Post office are overlapping hence the applicant is unable to carry on his duties as E.D.B.P.M. properly. This letter was replied by the applicant mentioning there in the facts and circumstances. Thereafter, copy of charge sheet was served upon the applicant on 18.11.1991. The departmental enquiry was conducted under 2 heads of

*See*

//3//

9  
0/0

charges which was concluded with the findings with charge no. 1 (a) <sup>e</sup> was proved and charge 1 (b) as not proved. This enquiry report was also replied by the applicant but the Superintendent of Post Offices dismissed the service of applicant, vide order dated 5.6.1992.

The applicant preferred an appeal against the same but the appeal was also dismissed by the Director of Postal Services as per order dated 16.9.92. which has been impugned by the applicant in the present OA under section 19 of the Central Administrative Tribunal Act mainly on the ground that the order passed by the Appellate Authority was illegal, arbitrary, against the merit and principle of Natural Justice because the post on which the applicant was working was not the post of Government servant and, therefore, it <sup>does</sup> ~~is~~ not come within purview of Government post. It has also been mentioned that there was no complaint against the applicant and there was no conflict in the working hours in between work of teacher and the work of Branch Post Master.

4. The respondent have contested the case and filed CA in which it has been pleaded that after the completion of all formalities, the applicant was appointed on the post of E.D.B.P.M. At the time of his appointment the applicant declared his income <sup>as</sup> of Rs. 300/- per month and that he was not serving on any Government Post. Acting on the declaration made by the applicant, he was appointed on 3.8.76 on the post of E.D.B.P.M. forth with at Kolhui. A complaint <sup>ed</sup> was made against him, which was enquired into under 2 heads of charges. Firstly that while he was working as Branch Post Master Kolhui.

San

He had accepted a job without obtaining departmental/ permission for the same and secondly that the working hours of both the post held clashes<sup>s</sup> to which other and therefore Sri K.D. Pandey could not discharge his duties properly as Branch Post Master. The enquiry officer found charge no. 1 as proved and the charge no. 2 as not proved. This enquiry report was submitted to disciplinary authority who considered the facts and circumstances of the matter and found the applicant guilty under both heads of the charge and found him not to be retained on the post, the applicant preferred appeal against this dismissal order which has been dismissed.

5. Heard arguments placed before us and peruse the record.

6. The applicant has failed to repel the position that he did not inform the Postal Department at the time of this appointment that he was working elsewhere, as a teacher in the school and that amounts to concealment of material facts. It has also come on record undisputedly that the college timings are from 10.00 A.M. to 4.00 P.M. and the working hours of the Branch Post Office are 12.30 noon to 01.00 P.M. and 2.45 P.M. to 5.15 P.M. and there by the working hours of both the places, where the applicant is said to have been working, clash to each other and obviously the

*Swan*

//5//

12

work of the Branch Post Office gets suffered for which there was a complaint against the applicant.

7. With the above position we find that the applicant has failed to successfully assailing the impugned order and thereby the OA is liable to be dismissed. Dismissed accordingly.

8. There shall be no order as to costs.



Member-A



Member-J

/n.s./