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Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A.399 of 1993

Smt. Umda Kumari Applicant.

Versus

Union of India
and others Respondents.

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Hon. Mr. Maharaj-Din, Member(J)
Hon. Mr. S. Das Gupta, Member(A)

(By Hon. Mr. S. Das Gupta, Member(A))

The applicant in this case was an Extra Departmental Branch Post Master (E.D.B.P.M. for short) at Kharagpur, District Azamgarh. The applicant was duly selected. for this post after being sponsored by the Employment Exchange and ~~was~~ took over charge on 6.6.1987 in pursuance of the appointment letter issued to her on 1.6.1987 (Annexure-A 1). Since then, she has been working continuously until her services were terminated by the impugned order dated 12.3.1993 (Annexure- A 3) passed by the respondent no. 3. This has led the applicant to file this application under Section 19 of the Administrative Tribunals Act, 1985 seeking the relief interalia of quashing the impugned and order dated 12.3.1993 restraining the respondents for interfering with her working as EDBPM Kharagpur.

2. The applicant's case is that she had passed Intermediate and was otherwise fully qualified for appointment to the post of EDBPM. The post of EDBPM at Kharagpur fell vacant in 1987 and a request was

sent to the Employment Exchange by the Senior Superintendent of Post Offices, Azamgarh inviting names of suitable candidates for filling the post. The applicant having found most suitable among the candidates, she was issued an appointment letter dated 1.6.1987 in pursuance of which she joined on 6.6.1987. Since her appointment, she had been working continuously without any blemish. No enquiry was either initiated against her nor is any such enquiry pending against her. In view of this, the impugned order of termination, the applicant claims, is wholly illegal, arbitrary, unjust and inviolation of Articles 14 & 16 of the Constitution, since neither any notice nor any opportunity was given to her before her services were terminated.

3. Explaining the circumstances under which the applicant's services were terminated, the official respondents in their counter reply have stated that one Harihar Singh, who was earlier working as EDBPM Kharagpur was put off duty in May, 1964. As a result, a vacancy was created which was filled by the provisional appointment of one Havaladar Yadav (respondent no. 4 in this case) in June, 1964. Thereafter in September, 1968 Harihar Singh was reinstated. Thereupon, Havaladar Singh, respondent no. 4 in this case, was asked to handover charge to Harihar Singh. Havaladar Yadav went in appeal against this order but the same was dismissed by the Post Master General

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U.P. Circle by his order dated 17.5.1969. This was challenged by Havaladar Yadav by filing a suit in October, 1969 in the court of Munsif. The learned Munsif dismissed the suit. The lower appellate court upheld this order. He filed an appeal in the High Court of Judicature at Allahabad, and the High Court by its judgment and order dated 22.2.1993 allowed the appeal and accordingly he was ordered to be engaged as EDBPM Kharagpur. It was, because of this, the services of the applicant in this case, were terminated.

4. We have heard the learned counsel for both the parties and carefully gone through the records of the case.

5. The facts averred by the applicant in this case having been denied by the respondents. They have, however, stated that since they have to comply with the order of the High Court, the termination of the applicant's services is necessary.

6. The applicant was, admittedly, validly selected for the post of EDBPM Kharagpur. It cannot be said that her appointment was, in any way, irregular. She has continuously worked for ^{than} more 6 years. Her services could ~~not~~ not have been terminated by discharge simpliciter under rule-6 of E.D.A. Conduct and Service Rules. Since, she has also

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completed more than 3 years of service, ~~and~~
~~as such~~, her services could not be terminated in
the manner in which it has been done by the
respondents. Her services could not also be terminated
by way of penalty ^{as no proceedings were} drawn up against her. The same view
has also been taken by the High Court of Judicature
at Allahabad in the appeal of Havaladar Yadav. The
relevant extract of the judgment dated 22.2.1993
is reproduced below;

" A perusal of Rule 6 shows that it is
implicit that if an employee has completed
three years of service then his service
cannot be terminated simpliciter because
otherwise there would be no different between
an employee who has completed three years
service and one who has not completed three
years of service, his services could not be
terminated in the manner in which it has
been done.

7. The principle on the basis of which the High
Court has set aside the termination of service of
Havaladar Yadav is equally applicable to the termination
of service of the applicant. In this case, since,
however, the order of the High Court dated 22.2.1993
has become final, the official respondents must
implement the same and obviously there cannot be
two EDBPMs in the same branch post office viz Kharagpur.
There is, therefore, no doubt that the applicant before
us must make way for Havaladar Yadav. But having

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said this, we must also emphasise that it is the bounden duty of the respondents to provide alternative employment to the applicant.

8. In view of the foregoing, we direct the respondents to provide appropriate alternative employment to the applicant in any branch post office, preferably in any locality adjacent to Kharagpur. The petition is disposed of with the above directions, there will be no order as to costs.


Member(A)


Member(J)

Dated: 27th May, 1994.

(n.u.)