

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 448 OF 1993

Allahabad, this the 12 th day of May, 1999.

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

Anil Tiwari,  
S/o. Sri Sewa Lal Tiwari,  
R/o. Village Mahahaha,  
Post - Kalyanpur, District Fatehpur.  
.....Applicant

C/A. Shri D.C.Dwivedi, Shri R.P.Singh, Advys.

Versus

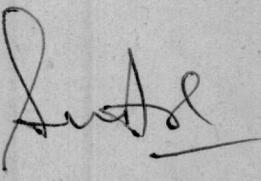
1. The Union of India through Secretary, Ministry of Post & Telecommunication of India, Delhi.
2. The Chief Post Master General Circle Lucknow.
3. The Director Post Service Kanpur Region, Kanpur.
4. The Sub-Divisional Inspector, Bindki, Fatehpur.

.....Respondents

(C/R. Shri S.C.Tripathy, Advocate)

O R D E R

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

  
In this original application applicant makes a  
prayer to quash the order of termination of the applicant  
dated 30-11-91 and order passed on representation dated  
21-2-92.

2. In brief facts of the case as stated by the applicant are that the applicant was appointed as E.D.D.A. Kalyanpur, Fatehpur, on 10-7-90 and continuously worked on the post upto 27-1-91. On 28-1-91 the applicant was appointed provisionally by regular process of selection after completing all the formalities, but all of sudden the services of applicant were terminated by respondent No.4 vide order dated 30-11-91 without any notice. Applicant filed his representation which was also rejected vide order dated 21-2-92. It is stated by the applicant that services of the applicant were terminated on the ground that he was not the resident of the Circle in which Post Office was situated and no Police Verification was done before his appointment and higher qualified persons were ignored. Therefore, applicant submitted this original application for the relief as aforesaid.

3. Counter was filed. It is stated in the Counter that the post of E.D.D.A. Kalyanpur (Fatehpur) fell vacant due to the death of Shri Radhey Shyam Bajpai on 1-10-89. Employment Exchange Officer, Fatehpur was requested to sponsor the names vide letter dated 22-9-90. Employment Exchange Officer, Fatehpur sponsored the names of seven candidates. All of them were addressed to apply to Sub Divisional Inspector (Posts), Bindki. Thereafter the applicant was appointed on 28-1-91 as an E.D.D.A. Kalyanpur (Fatehpur). It is stated that the applicant was provisionally appointed/does not confer any right to the applicant for his regular appointment. It is also stated that on verification the applicant was found not the resident of Village Mahara. The Police

verification was not done before his appointment and applicant was only qualified as Prathama by Hindi Sahitya Sammelan, Allahabad which is not equivalent to High School of any before but a candidate who secured 59% marks in High School Examination was ignored by the concerned authority at the time of selection of E.D.D.A. Kalyanpur (Fatehpur). Therefore, the appointment of the applicant being irregular was cancelled vide impugned order and this original application is devoid of any merit and liable to be dismissed.

4. Rejoinder was also filed reiterating the facts stated in the original application.

5. Heard the learned lawyer for the applicant learned lawyer for respondents and also perused the original record file produced by the learned lawyer for respondents.

6. Learned lawyer for the applicant has submitted that before issuing the impugned order of termination no opportunity of hearing or no show cause notice was given to the applicant thereby respondents have violated the principles of natural justice. This argument was objected by the learned lawyer for respondents on the ground that appointment being irregular from the very beginning no opportunity to show cause/hearing is required before issuing the impugned order of termination.

7. On the perusal of order of appointment dated 28-1-91 it appears that the applicant was appointed

provisionally on the post of E.D.D.A. Kalyanpur subject to satisfactory verification of character antecedents by the Police, but no Police verification regarding the character antecedents of the applicant was done before his appointment. On review it was noticed that the applicant is not the resident of village/Circle in which post office is situated and his qualification was only Prathama by Hindi Sahitya Sammelan, Allahabad. On the perusal of record it also appears that Employment Exchange Officer, Fatehpur sponsored the names of seven candidates and all of them were addressed to file applications. It is also evident that out of those seven candidates 2 were only VIIIth class pass and applicant was Prathama pass by Hindi Sahitya Sammelan, Allahabad and others were High School. The Secretary, Board of Secondary Education U.P. vide his letter dated 4-4-91 addressed to Superintendent Post Offices, Fatehpur has made it clear that Prathama examination of Hindi Sahitya Sammelan, Allahabad is not equivalent to High School but is equivalent to Class-VIII as the person who has passed Prathama examination is eligible to appear in High School Examination of the Board of Secondary Education, U.P. It is also evident that while appointing the applicant on the basis of above qualification he was treated equivalent to High School and his percentage of marks obtained in Prathama examination was taken into consideration which was a wrong meaning thereby a candidate who secured 59% marks in the High School examination was ignored. In this way appointment of the applicant made vide order dated 28-1-91 was irregular and no illegality was committed in terminating the services of the applicant vide impugned order dated 30-11-91 and rejection of the representation of the applicant vide order dated 21.2.92 was also rightly done.

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

9. In case of Doddasiddaiah Vrs. 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.

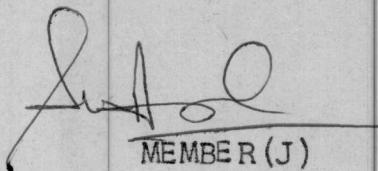
10. In case of State of U.P. Vs. Kaushal Kishore Shukla (1991) 1 SCC 691 Hon'ble Supreme Court held that "a temporary government servant has no right to hold the post. Whenever, the competent authority is satisfied that the work and conduct of a temporary servant is not satisfactory or that his continuance 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 Muliyan 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 simpliciter and it does not

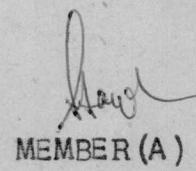
cast any stigma on the applicant. It is well settled that such termination will not affect the Article 311 of the Constitution of India.

12. On the basis of above legal position and facts & circumstances of the instant case the order of termination passed by respondents does not suffer from any infirmity and 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)

/satya/