

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 5th July of 2001.

CORAM :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj. Gen. K.K. Srivastava , A.M.

Orginal Application No. 476 of 1993.

Mahanand Prasad , S/o Bairagi, R/o Vill. and
Post- Rohunwa Machhargawan Via Badarwar,
Tehsil Padrauna Distt. Deoria.

.....Applicant.

Counsel for the applicant :- Sri Avanish Tripathi

V E R S U S

1. Union of India through the Secretary, M/o Post and Telegraph, New Delhi.
2. Director, Postal Services, Gorakhpur Region, Gorakhpur.
3. Senior Superintendent of Post Offices, Deoria Division, Deoria.
4. Mohan Prasad Gupta S/o Sri Ram Chandra Gupta, E.D.B.P.M, Rohunwa Machhargawan, Distt. Deoria.

.....Respondents.

Counsel for the respondent :- Km. Sadhna Srivastava

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this application under 1 section 19 of the
Administrative Tribunal's Act, 1985, applicant has



challanged the order of his termination of services dt. 22.03.1993.

2. The facts giving rise to this application are that the post for Extra Departmental Branch Post Master (EDBPM) Post Office Rohunwa Machhargawan Distt. Deoria, names were forwarded by Employment Exchange on requisition made. Applicant Mahanand Prasad was found suitable and was selected for appointment under appointment order dt. 10.08.1992 (annexure-1). Applicant joined the post on 17.08.1992. It appears that respondent No. 4 made complaint challanging the appointment of the applicant. On this complaint, a show cause notice dated 18.02.1993 was served on the applicant. A copy of notice has been filed as annexure-3. Applicant was required to give his reply within 10 days and to appear personally for hearing on 01.03.1993. Applicant filed his reply within time and also appeared before respondent No. 3 and made his submissions. Respondent No. 3 by order dated 22.03.1993 terminate the appointment of the applicant. A copy of the order has been filed as annexure-4 to the CA. From the perusal of the order it appears that no reasons have been mentioned as to why the applicant should not be continued in service. Show cause notice was served on the applicant why his appointment may not be cancelled. He filed reply and also appeared personally before respondent No. 3 but instead of passing the order, respondent No. 3 has choosen to pass the order under rule EDA's (Conduct and Service) Rules, 1964. Such a cours was not open to respondent No. 3 as he has himself choosen the course for cancelling the appointment of the applicant after giving him opportunity of hearing. The applicant has challanged the order of appointment of respondent No. 4 on the same date in place of the applicant.

Sri Anupam Shukla, learned counsel for the respondent

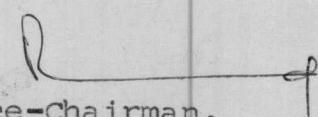
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No. 4 has submitted that respondent No. 4 had joined the post on 30.03.1993 and is serving since then. It is also submitted that respondent No. 4 ^{was} one of the candidates whose name was forwarded by the Employment Exchange. In the circumstances of the case, in our opinion, applicant is entitled for the relief and order terminating him from service can not be sustained.

3. The O.A is accordingly allowed. The order dated 22.03.1993 passed by respondent No.3 terminating the applicant from service and appointing the respondent No. 4 both are quashed. The respondent No. 3 shall pass a fresh order in accordance with law in the light of observation made ~~above~~ within three months from the date a copy of this order is received. Till the fresh order is passed by respondent No. 3, respondent No.4 shall ^{be} ~~allow~~ to continue and his furthur continuance shall ^{be} ~~sub~~ ^{subject} to furthur order passed by respondent No.3.

4. There will be no order as to costs.


Member - A.


Vice-Chairman.

/Anand/