

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 26th day of February 1997.

Original Application no. 102 of 1993.

Hon'ble Dr. R.K. Saxena, Judicial Member
Hon'ble Mr. S. Dayal, Administrative Member.

Uma Shankar Shukla, S/o Sri Raghu Nandan Prasad Shukla,
R/o Village and Post Aladadpur, District Allahabad.

... Applicant

C/A Sri B.B. Paul, Sri H.S. Srivastava

Versus

1. The Union of India through the Secretary, Ministry of Communication, Government of India, New Delhi.
2. The Director General (Post) & (Telegraph) Directorate, Government of India, New Delhi.
3. Post Master General, Allahabad.
4. Director, Postal Services, Allahabad Region, Allahabad.

... Respondents.

C/R Km. Sadhana Srivastava.

ORDER

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the
Administrative Tribunals Act, 1985.

The applicant seeks the following reliefs through this application:-

- i. Setting aside of the **order** of termination dated 18.1.93 with all consequential benefits
- ii. A **direction** to the respondents to pay costs of this application.
- iii. The case of the applicant is that he is educated upto intermediate and is a resident of Aladadpur, Tahsil Soraon, Allahabad. The family of the applicant has substantial agricultural lands and pucca ancestral house. His name was registered in the employment exchange and was sponsored to Respondent no. 5 in response to his requisition for the post of Extra Departmental Branch Post Master along with names of Sri Santosh Kumar Singh, (Respondent no. 6) and Sri Sri Ghanshyam Singh. After completion of all formalities, the applicant was appointed by order dated 23.10.92 and took over the post on 26.10.92 and has been working on the post since that day. Suddenly on 14.1.93, the Respondent no. 3 passed **order** for termination of the applicant's services at the behest of Sri Rampujan Patel, M.P. of Phoolpur. Respondent no. 5 passed order of termination dated 18.1.93 in respect of the applicant. The applicant claims that no show cause notice was given to him and no enquiry was held before the order of termination was passed. He has approached the tribunal for relief and is continuing to work at Aladadpur.

applicant and Km. Sadhana Srivastava for the respondents were heard.

The respondents have given reasons in their counter reply for cancellation of the order of appointment of the applicant. The first of these is that the names of candidates were received after the due date from the employment exchange. This is no reasons and it ceased to have any relevance after the appointment order of the applicant was made, Secondly it is said that the candidature of Sri Santosh Kumar Singh was wrongly cancelled treating him to be non local candidate. This contention is proved wrong by Annexure A-6 and A-7 to the OA in which the point of residence is not in contention. Annexure A-6 is Postal Inspector's recommendations in which all the three candidates are clearly shown to be residents of different hamlets of Aladedpur village. Annexure A-7 shows that it was clearly understood that all the three candidates belonged to Aladadpur. The income of the applicant seems to have played a crucial part in his selection. The respondents have denied that the letter of Sri Rampujan Patel, M.P., Phoolpur, was merely taken as a source of information and proper action was taken by the department based on the merits of the case. However, the reasons given for cancellation of the applicant's appointment are so obviously untenable that they give an impression that the respondents were searching for any reasons howsoever insignificant for cancellation of the applicant's appointment.

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The counter reply of Respondent no. 6 is still more revealing. He has alleged that appointment of the applicant was made on account of illegal gratification given by the applicant to Sub-Divisional Inspector. It is clear from Annexure 6 to the OA that the Sub-Divisional Inspector made recommendations impartially and, therefore, the allegation can only be considered to be baseless.

The order of termination shows that it has been passed by the appointing authority on the basis of directions received from higher authorities. The order of appointment and of termination are required to be made by an application of mind by appointing authority and not on the basis of directions from above. If the appointing authority discusses directions from above and agrees with the reasons given on the basis of which directions were given after considering them, the order would be valid. This is not the case here, therefore, the order of termination is bad in law.

It has been argued that Rule 6 of Extra Departmental Agents (Conditions of Service) Rules provides for termination of service by giving a months notice if E.D. Agent has not completed 3 years of Services as is the case here. However, if termination is not termination simplicitor but on account of allegations, the procedure provided in Rule 8 of E.D. Rules should have been followed

We, therefore, set aside the impugned order

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18.1.93
dated ~~1.2.80~~ for termination of the applicant's services.
The respondents are directed to give all consequential
benefits to which the applicant may have been entitled
but for the order of termination within a period of three
months from the date of communication of this order.

The respondents shall pay costs of the
application to the applicant.

Sd/-
A.M.

Sd/-
J.M.

Compared
for