

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the day 7th December 1994.

ORIGINAL APPLICATION NO. 121 OF 1993.

Hari Gopal Singh,
S/o Sri Sheo Kumar Singh,
R/o Barua, Post Office Barua,
District-Shahjahanpur.

By Advocate Sri S.N. Srivastava. Applicant.

Versus

1. The Superintendent of Post Offices,
Shahjahanpur.
2. The Postmaster General,
U.P. Lucknow.
3. The Union of India, through the Secretary,
Postal Department.

..... Respondents.

By Advocate Sri C.S. Singh.

CORAM:- Hon'ble Mr. Justice B.C. Saksena, Vice-Chairman.

Hon'ble Mr. K. Muthukumar, Member (A)

O R D E R (ORAL)

By Hon'ble Mr. Justice B.C. Saksena, V.C.

1. We have heard the learned counsel for the parties. Through this O.A the applicant challenges an order dt. 14th December 1992, terminating his service in exercise the powers of Rule 6 EDAS (Conduct & Service)

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Rules 1964. The applicant has challenged the order on the following grounds:-

a) That, he had been appointed as E.D.B.P.M Barua Shahjahanpur in place of his father and who died in harness. The appointment being on compassionate ground under the ~~Dying~~ in Harness Rules, the termination of the applicant's services was ~~an~~ arbitrary.

b) That, the applicant ^{was not} ~~has~~ given any opportunity of hearing to explain his position. In view of the averments in the counter affidavit, the order of termination can not said to be an order simpliciter but amounts to an order passed by way of punishment.

2. In the counter affidavit, it has been indicated that the applicant was given an appointment on compassionate ground in place of his father provisionally subject to approval by the Chief Post Master General, Kanpur. It is urged that the Competent Authority ^{provisional} ~~to approve~~ ^{Bel} ~~direct~~ the appointment on compassionate ground. It has been further indicated in the counter affidavit that the C.P.M. has given an ~~additional~~ approval to the provisional appointment of the applicant and had also directed that the formalities for regular appointment may be completed. The respondents states that with a view to complete formalities for the regular appointment, the matter for verification of the applicant, antecedents and character were referred to the S.P and District Magistrate, Shahjahanpur. The Superintendent of Police, Shahjahanpur submitted a report on 23rd October 1993

indicating that the character of the applicant is not good, he is standing trial for an offence alleged to have been committed by him punishable Under Section 309 and 397 of the Indian Penal Code and that he was not fit to be given appointment in a Government Service. As a consequence of the said report, it is stated, that the impugned order had been passed.

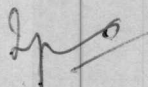
3. In the rejoinder affidavit, the applicant states that his father had lodged the F.I.R, with the Police Station alleging that four persons wearing the police Uniform had entered into the house of the applicant in an intoxicated state and the caused harassment to the family members. The learned counsel for the applicant urges that the applicant's father had lodged the FIR against the Police Officers, and, had the applicant been informed of the report received from the Superintendent of Police about the character and antecedent verification, the applicant would have explained the whole position. It is urged that the applicant had not been given any such opportunity and the order passed in the circumstances is by way of punishment.

4. We have perused the impugned order of termination. It contains no stigma. It is in accordance with the provisions of Rule 6 EDAS (Conduct & Service) Rules, 1964.

5. It is fairly well settled that any averments made in the counter affidavit/ written statement by the

authorities to explain the back ground which led to the passing of the order ^{of termination} ~~of the transfer~~ _{be} would not change the character of the order of termination which has been passed by them. Accordingly, we hold that the applicant's services ~~were~~ terminated by an order dt. 14.12.1992, ~~is~~ is not stigmatic and, therefore, the plea that it is camouflaged and is an order of punishment, does not appeal to us.

6. The learned counsel for the applicant was unable to indicate or cite any decision, in the circumstances of this case that it would be held that the order of termination simpliciter is an order of punishment. No doubt it is open to the Tribunal to lift the veil but even if it is done, the fact emerges that the applicant's appointment was only provisional and his character and antecedent verification was required to be done. The report of Superintendent of Police was not favourable to the applicant and in these circumstances the order of termination simplicitor has been passed. We are satisfied that no case for interference has been made out. The O.A. is, accordingly, dismissed. No order as to costs.


MEMBER (A)


VICE-CHAIRMAN

ALLAHABAD: DATED: 7/12/1994.

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