

Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 221 of 1994

Akbal Ahmad Applicant.

Versus

Union of India
and others Respondents.

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Hon. Mr. S. Das Gupta, Member(A)
Hon. Mr. T.L. Berma, Member(J)

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

The relief prayed for in this application filed under Section 19 of the Administrative Tribunals Act, 1985 is that the impugned order dated 22.1.1994 (Annexure- A 1) by which the services of the applicant were terminated ,be set aside.

2. The brief facts of the case are that the ^{applicant} was selected and appointed on the post of Extra Departmental Branch Post Master(EDBPM for short)Kurdah in Basti Postal Division on 1.6.1992. The applicant had obtained the highest percentage of marks in the H.S. Examination among all the candidates and therefore, he was selected in preference to other candidates. The applicant took charge of the post w.e.f. 1.7.1992 and thereafter rendered unblemished service of more than 18 months until the termination of his service by the impugned order. The applicant

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contends that the impugned order was issued on the basis of a direction of the appellate authority, therefore, he had not filed any appeal and has directly filed this application seeking the relief aforementioned.

3. The respondents have filed their counter reply contesting the case of the applicant. It has been stated therein that on the post of EDBPM Kурдах ~~which was falling~~ vacant, the respondent no. 1 sent a requisition to the local employment exchange requesting them to sponsor suitable candidates. The employment exchange sent ^{names of} three candidates who were asked to submit their applications along with the necessary documents and certificates by 15.5.1992. However, on 7.5.1993, a joint complaint was received from the villagers mentioning that there has been neither any information from the employment exchange nor from the gram pradhan regarding the existence of vacancy going to be filled. It was complaint that the employment exchange has sponsored only the names of the candidates in which they were interested. On receipt of this complaint, the respondent no. 1 directly called for applications from the candidates after notifying the vacancies. In response to direct notification, the applicant amongst others applied. The petitioner had submitted a copy of the sale-deed in support of ^{his} their income certificate,

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but he had not submitted Khatauni. The petitioner was selected on the basis his having received the highest percentage of marks in the High School Examination and therefore, appointed to the post. Latter during the verification of genuineness of certificates submitted by the candidates, the applicant was asked to submit papers regarding mutation but he failed to submit the necessary papers before the SDI HaDaiya who was enquiring into the matter. The petitioner submitted a copy of the Khatauni only after expiry of one year from the date of his appointment. The appointment of the petitioner was reviewed by the Regional Office and it was found that his appointment was irregular and, therefore, the same was cancelled by the order dated 4.1.1994, In compliance of which the impugned order dated 22.1.1994 was issued.

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

5. The termination of service of the applicant is purported to have been done in exercise of the power conferred under Rule-6 of the E.D. Agents(Service and Conduct) Rules, ~~1965~~.

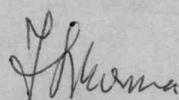
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In the first place, the order suffers from the infirmity that it is made effective immediately whereas, in terms of recent amendment issued by the department of post, ^{the} condition precedent to the termination of service under revised Rule-6 of the E.D.A. (Conduct and Service) Rules, 1964 is a serving of a notice of one month or payment of salary for one month in lieu. This statutory provision has not been complied with while terminating the services of the applicant. A part from the procedural infirmity we find that the termination of ~~the~~ service of the applicant has apparently been done in a very high handed manner. We are award that under the provisions of Rule-6 of the E.D.A (Conduct and Service) Rules, ~~1964~~ ^{competent} the ~~Government~~ Authority has not required to indicate the reasons for termination. But, in this case the ~~Weil~~ has been lifted by the respondents in their counter affidavit regarding the reasons for termination of service. It appears there from that the reason is merely that he has not submitted a Khatauni in support of his income certificate within a period of one year from the date of his appointment. We have not been ~~able to~~ told either in the counter reply or during the course of argument as to whether furnishing of Khatauni in support of income certificate is a must within a period of one year from the date of appointment. It is not the case of the respondents that the applicant did not submit the Khatauni

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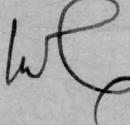
or that the Khatauni submitted was found to be not genuine. Their only case is that it was not submitted within a period of one year. In the absence of any statutory rule, which at least has not been shown to us, under which omission to submit Khatauni within a period of one year makes the services of E.D. Agents liable to be terminated, we cannot, but hold that the termination of service of the applicant in the matter in which it has been done is highly-handed, to say the least. We, therefore, find the impugned order to be highly arbitrary and illegal and liable to be quashed without hesitation.

6. In view of the foregoing, the application is allowed. The impugned order dated 22.1.1994 is quashed and set aside. The applicant shall be reinstated in service forthwith in any case, not later than one month from the date of communication of this order. He shall be paid the back wages for the period from the date of termination of service and the date of reinstatement. This intervening period shall also be treated as on duty for all other purposes. There will be no order as to costs.


Member (J)

Dated: 03 August
July, 1994

(n.u.)


Member (A)