

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 16TH DAY OF AUGUST, 2001

Original Application No. 609 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Bhagwati prasad, son of Shri Jagdish
prasad, R/o village and Post
Office Vairni, district Mathura

... Applicant

(By Adv: Shri M.K.Upadhyaya)

Versus

1. Union of India through Secretary
Department of Posts, New Delhi.
2. Senior Supdt. of Post Offices,
Mathura.
3. Sub Divisional Inspector(Posts)
East Sub Division, Mathura
4. R.N.Yadav, Sub Divisional Inspector
(Posts) East Sub Division
Mathura.

... Respondents

(By Adv: Shri S.C.Triapthi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

This OA u/s 19 of A.T.Act 1985 has been filed challenging order dated 10.11.1993 by which services of the applicant as EDR, Post office Jugsana district Mathura have been terminated. A direction has also been prayed against respondents to reinstate the applicant in service with all benefits and continuity in service.

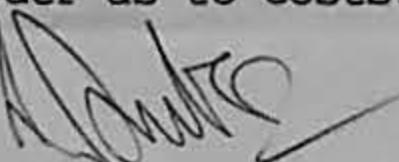
The facts in short giving rise to this application are that the post of EDR in post office Jugsana had fallen vacant. Under order of the S.P.O dated 20.1.1993, S.D.I called for the suitable names from the employment exchange Mathura for appointment as E.D.R. the names including that of applicant were received from the employment exchange.

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Thereafter as usual selection proceedings took place and applicant was found most suitable. He was appointed as EDR by order dated 8.6.1993. However, by order dated 10.11.1993 his services were terminated under Rule 6(b) of EDA (Conduct & Service) Rules 1964, aggrieved by which this OA has been filed.

Counter affidavit has been filed in para 6 whereof it has been clearly admitted that the services of the applicant were terminated in pursuance of the order of Director, Postal Services dated 5.11.1993. The legal position by now is well settled that the superior authority cannot review the appointments made by the appointing authority and if any defect in selection is found, the appointment can only be cancelled after giving opportunity of hearing to the applicant, if he had already joined and is serving on the post. The respondents¹ invoked the provisions of Rule 6(b) of EDA (Conduct & Service) Rules 1964 only to provide a camouflage to the action of cancelling the selection of the applicant. Learned counsel for the respondents submitted that the applicant was not resident of the village and thus he could not be selected. In our opinion such an order cannot be sustained in law.

The OA is accordingly allowed. The order dated 10.11.1993(Annexure 1) is quashed. The applicant shall be entitled to be reinstated on the post with continuity in service. However, he will not be entitled for any back wages. No order as to costs.


MEMBER(A)
VICE CHAIRMAN

Dated: 16.8.2001

Uv/