

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL      ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 18th day of May 2001.

Original Application no. 1019 of 1994.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman  
Hon'ble Maj Gen KK Srivastava, Administrative Member.

Arun Kumay Yayant, S/o Late Sri C.R. Jayant,  
R/o House no. 1/193, Hathi Khana, Fatehgarh,  
FARRUKHABAD.

... Applicant

C/A Shri B.P. Srivastava  
Shri R.K. Bhatt

Versus

1. The Union of India, through Post Master General,  
LUCKNOW.
2. The Superintendent of Post Offices,  
Fatehgarh Division,  
FARRUKHABAD.
3. The Post Master, Fatehgarh,  
FARRUKHABAD.
4. The Post Master General,  
KANPUR.

... Respondents

C/Rs Km. Sadhana Srivastava

O R D E R (Oral)

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

The facts in short giving rise to this OA are that the post of Extra Departmental Sub Post Master (in short EDSPM) fell vacant on retirement of Shri Siya Ram Sharma on 13.3.1990. Applications were invited from desired persons to be appointed on the post.

The applicant had also applied. He was selected and appointed w.e.f. 7.6.1990. His services were terminated by order dated 16.10.1992, then he filed OA no. 1657 of 1992, which was allowed partly by order dated 25.1.1994. In view of an amendment in rule 6 of Extra Departmental (C&S) rules, 1964, the respondents were directed to consider the representation of the applicant. After the order of this Tribunal Senior Supdt. of Post Offices (in short SSPO), Fatehgarh, passed another order dated 4.4.1994, terminating the services of the applicant by one month's notice. The order has been passed under rules. Aggrieved by which the applicant has approached this Tribunal by filing the present O.A.

2. Learned counsel for the respondents has submitted that the reasons for termination of the applicant from service was the report of the Collector dated 30.7.1992 (annexure CA 1) wherein it has been stated that the applicant has no property or income of his own.

3. Learned counsel for the applicant has submitted

that the report of the collector should not have been  
acted <sup>in</sup> ~~up to~~ in mechanical manner without giving an opportunity  
to the applicant to explain the facts stated therein.  
It is also submitted that the report itself shows that  
the applicant had valueable property of double stores  
pakka house in Mohalla Hathi Khana, Fatehgarh. Learned  
counsel for the respondents also placed before us the  
certificate dated 8.1.1993 issued by Collector, Farrukhabad  
that the applicant is serving in a shop in Hathi Khana,  
Fatehgarh and is getting a monthly imcome of Rs. 600/-.  
The submission of learned counsel for the applicant  
is that, had the applicant <sup>been</sup> ~~is~~ given an opportunity  
of hearing before passing the impugned order, he could  
have satisfied the respondent no. 2 about his income.  
Learned counsel for the respondents, Km Sadhana Srivastava,  
on the other hand submitted that the appointment of the  
applicant was subject to verification of his income from  
Collector and character verification from Police department.  
As the report received showed that the applicant had  
no income other than the postal department, the order  
of termination was rightly passed under rules. It is  
also submitted that in such cases opportunity of hearing  
was not required to be given.

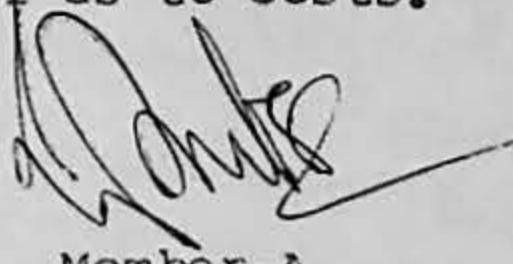
4. We have carefully considered the submission  
made by the learned counsel for the parites. It is not  
disputed that while admitting application form in response  
to the advertisement, every candidate <sup>is</sup> ~~has~~ required to  
mention his property and income. If on <sup>the</sup> ~~police~~ verification

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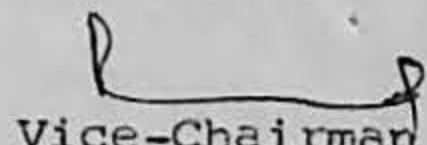
a report contrary to the facts given in the application form is received, in such cases the respondent no. 2 ought to have put that report before the applicant and could ask him to give explanation. The report received behind the back of the applicant, if accepted mechanically, ~~it would be~~ <sup>not in accordance with</sup> the procedure adopted shall be valid ~~for~~ <sup>on</sup> the principle of natural justice. It is not denied that the applicant had already served for 2 years on the post. The order was not a simple order, contemplated under rule 6 which provides a provision to terminate the services if the work and conduct <sup>during the</sup> ~~for a~~ period of three years was not found satisfactory. In our opinion, respondent no. 2 committed a serious error of law in not giving an opportunity to the applicant before passing the impugned order and the order cannot be sustained.

5. For the reasons stated above, the impugned order dated 4.4.1994 is quashed. The applicant shall be entitled to be re-instated on the post without any back wages. It shall <sup>be</sup> ~~also~~ open to respondent no. 2 to pass fresh order after giving reasonable opportunity of hearing to the applicant. The OA is decided accordingly.

6. No order as to costs.



Member-A



Vice-Chairman

/pc/