

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 4th day of July, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj. Gen K.K. Srivastava, A.M.

Orginal Application No. 41 of 1995 .

Hriday Narain Shukla, S/o Sri Dewta Din Shukla
R/o Village and Post- Jamau Patti, Badlapur,
Distt. Jaunpur.

.....Applicant.

Counsel for the applicant :- Sri P.N. Tripathi

V E R S U S

1. Chief Post Master General, U.P. Region, Lucknow.
2. The Superintendent of Post Offices, Jaunpur Division, Jaunpur.
3. Union of India through the Director (Post Master General), Post Offices, Allahabad.
4. Dak Pal, Post Office, Jaunpur.

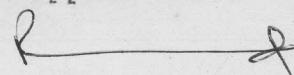
.....Respondents

Counsel for the respondents :- Sri Amit Sthalekar

O R D E R (oral)

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

By this application under section 19 of the Administrative Tribunal's Act, 1985, applicant has challanged the order dated 02.12.1994 by which the Chief Post Master General (Respondent No.1) has maintained his order dated 11.12.1991 by which he decided to cancel the appointment of the applicant.



The facts in brief giving rise to this controversy are that names were called from Employment Exchange for appointment as Extra Departmental Branch Post Master (E.D.B.P.M) for the post office, Jamau Patti, Distt. Jaunpur. Names of five candidates were received from the Employment Exchange on 03.06.1991 including the name of the applicant. The applicant was found best amongst all and he was appointed vide order dated 02.08.1991. He joined the post on 20.08.1991. However, on some complaints made by other candidates, Post Master General by order dated 11.12.1991 ~~.....~~ directed to cancel the appointment and in pursuance of the said order, by order dated 16.12.1991 applicant's services were terminated. Aggrieved by the said order, applicant filed O.A No. 58/1992 which was allowed by this Tribunal on 24.11.1992. The operative para of the order is being reproduced below :-

".....Accordingly, the application deserves to be allowed and the cancellation order dated 16.12.1991 is quashed. However, the appointment will be deemed to be in continuing service. However, it will be open for the respondents to give an opportunity of hearing to the applicant and appraise him of the reason of the cancellation of his appointment and after taking his version and fact that the selection was made by the competent authority may pass a necessary order, which is warranted under the facts and circumstances. With these observations, the application is disposed of finally. No order as to cost. "

3. In pursuance of the order of this Tribunal, applicant was served a show cause notice dated 13.08.1993. In this notice, nature of irregularities was not disclosed. For better appreciation of notice is being reproduced below :-



" My dear Shukla,

Irregularities have been noticed in your selection for the appointment of EDBPM Jamuapatti (Jaunpur). It is, therefore, proposed to cancel your appointment made vide this office memo of even number dated 02.08.91.

You are, therefore, requested to explain as to why your services should not be terminated from the post of E.D.B.P.M, Jamuapatti, District- Jaunpur under rule 6 of EDA's (Conduct and Service)Rule, 1964 within thirth days of the receipt of this letter positively.

In case, no reply is received within the above stipulated period furthur necessary action in the matter will be taken ex parte.

Sd/
 Supdt. of Post Offices
 Jaunpur Division
 Jaunpur. "

4. After this notice applicant filed his reply.

The C.P.M.G passed the order dated 02.12.1994 maintaining his earlier order, aggrieved by which applicant has approached this Tribunal.

5. Learned counsel for the applicant has submitted that this Tribunal gave specific direction to communicate the reasons to the applicant on which basis his appointment was sought to be cancelled but respondents in the notice have only said that erregularities have been noticed. The nature of erregularities have not been mentioned. It is submitted that in absence of the nature of erregularities, it was not possible for the applicant to make any specific reply. Learned counsel has submitted that the impugned order has been passed illegally and clear violation of principles of natural justice. Learned counsel has submitted that as the procedure adopted by

the respondents was wholly illegal and violation of principles of natural justice, the order can not be sustained. Learned counsel for the respondents on the other hand has submitted that the applicant has submitted his reply and on the basis of the same, the order has been passed. The order does not suffer from any illegality and does not call any interference by this Tribunal.

6. We have considered the submissions made by counsel for the parties and perused the records.

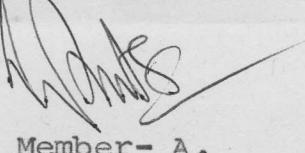
7. On perusal of the order, it appears that the applicant was summoned to appear before the Chief Post Master General. The order says that he was informed about the irregularities and he was given opportunity to say orally or in writing. Then applicant gave reply in writing. The applicant on the basis of ~~other~~ work could only mention that he has only to say that his house is suitable for opening the post office. He could not make any other submission on which basis the appointment was sought to be cancelled. The C.P.M.G. ultimately in para 3 has concluded that I considered the submission made by the applicant and found that the applicant could not place any question on which basis ~~any~~ interference ~~has been~~ required in his earlier order. The applicant had also mentioned that the service is only source of earning and small agricultural area ~~is~~ possessed is not sufficient to maintain his family. He also prayed that he may be continued in service. In the entire order there is no mention about the irregularities which necessitated passing the order of cancellation of appointment. In our opinion, the order suffers from manifest ~~arbitrary~~ ^{excess of law} and can not

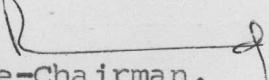


sustain. The applicant is entitled for relief.

8. For the reasons stated above, order dated 02.12.1994 (annexure-1) is quashed. The applicant to be re-instated on the post of E.D.B.P.M, Jamaupatti post office, Distt. Jaunpur within a month from the date a copy of this order is received. However, he will not be entitled for the back wages.

9. There will be no order as to costs.


Member- A.


Vice-Chairman.

/Anand/