

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

ALLAHABAD THIS THE 05th DAY OF NOVEMBER, 2003.

Original Application No. 1042 of 1999.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member- A.

Ashwani Kumar Tiwari S/o Sri Krishna Nand Tiwari
R/o Vill. and Post- Garapur, Sahson, Distt. Allahabad.

.....Applicant

Counsel for the applicant :- Sri R.P. Singh

V E R S U S

1. Union of India through the Secretary, D/o Post,
and Telegraph, New Delhi.
2. Senior Superintendent of Post Offices,
Head Post Office, Allahabad.
3. Sub Divisional Inspector, Post Offices,
sub Division-Handia, Distt. Allahabad.

.....Respondents

Counsel for the respondents :- Sri M.B. Singh

O R D E R

By Hon'ble Mr. Justice R.R.K. Trivedi, VC.

By this O.A filed under section 19 of Administrative Tribunals Act, 1985, the applicant has challenged the order dated 01.09.1999 (annexure- 3) by which his services as E.D.R., Garapur, Distt. Allahabad were terminated in purported exercise of power under rule 6 of E.D (Conduct and Service) Rules, 1964.

2. The facts of the case are that the post of E.D.R, Garapur fell vacant, as the permanent incumbent Sri Jagannath Prasad Mishra, was promoted to the cadre of Group 'D' of the Post Office. The post was advertised and applications were invited in response to which 25 candidates applied including



the applicant. In this selection, the applicant was found suitable and was selected for appointment vide order dated 31.05.1999, passed by respondent No. 3.

3. In para 9 of the counter reply it has been stated that one Sri Narendra Prasad Pandey, who was also candidate for appointment, made a representation before respondent No. 2 complaining that his case has wrongly not been considered. The respondent No. 2 on complaint of aforesaid Sri N.P. Pandey cancelled the appointment of the applicant behind his back without affording any opportunity of hearing and directed respondent No. 3 to terminate the services of the applicant.

4. The Full Bench of this Tribunal in case of Tilakdhari Yadav Vs. U.O.I and Ors (1997) 36 ATC 539 (FB) has held that Rule 6 does not confer power to appointing authority or superior authority to terminate the service of EDR without giving him opportunity of hearing. In the present case, the fact that the appointment of the applicant was cancelled by the respondent No. 2 behind his back without giving him opportunity of hearing. The procedure adopted was in violation of principles of natural justice and the impugned order cannot be sustained. The order passed by respondent No. 3 was only in compliance of the order of respondent No. 2 and it was not passed ^{by} independent exercise of power under Rule 6. Thus, it was not applicable in the facts and circumstances of the case. In our opinion, the applicant is entitled for relief.

5. The O.A is accordingly allowed. The impugned order dated 01.09.1999 (annexure 3) is quashed. The respondents are directed to reinstate the applicant on the post within a period of six weeks from the date copy of this order is filed. ~~However,~~ The applicant ^{shall be} entitled ~~only~~ for continuity in the service and other benefits, ^{but} he shall be entitled only 50% of the back wages. No costs.

/Anand/

Member- A.

Vice-Chairman.