

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 22nd day of November, 2000.

C O R A M :-

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman  
Hon'ble Mr. V.K. Majotra, Member- A.

Orginal Application No. 112 of 1999.

Yogendra Nath Pandey, S/o Sri Prem Chandra Pandey  
a/a 22 years, R/o Village and Post Office-  
Rupaudha Narainpur, Distt. Mirzapur. At present  
working as E.D.B.P.M, Post Office Rupaudha,  
Mirzapur.

..... Applicant.

Counsel for the applicant:- Sri Vijay Bahadur.

V E R S U S

1. Union of India through the Secretary of Posts,  
New Delhi.
2. Superintendent of Post Offices, Mirzapur.
3. Dy. Inspector of Post Offices, Chunar,  
Distt. Mirzapur.
4. Post Master General, Allahabad Region, Allahabad.

..... Respondents.

Counsel for the respondents:- Sri Prashant Mathur

O R D E R (oral)

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

Facts giving rise to this application are that the post of E.D.B.P.M, Rupaudha Narainpur, Distt. Mirzapur <sup>was</sup> fall vacant on account of retirement of Sri Prem Chandra Pandey, the person who was serving on the post. The selection proceedings were initiated and names were called from the Employment Exchange, Mirzapur. The applicant was selected for appointment and vide appointment order dt. 09.11.1998 he was appointed as E.D.B.P.M. However, by the impugned order dt. 30.01.99, service of the applicant was terminated. Learned counsel for the applicant has submitted that the applicant was regularly selected for appointment and the appointment can not be cancelled without affording him an opportunity of hearing and without speaking reasons. For the aforesaid submission, <sup>releance</sup> ~~it has been~~ <sup>in</sup> ~~contend~~ in para 4.14 of the O.A which has been replied by the respondents in para 13 of the counter affidavit which reads as under :-

" Para 4.14 of the application are not admitted in the form they stand. In reply thereto, it is submitted that as per rules, the appointment of the individual is provisional and can be terminated by either side. There is no question of assigning any reason for termination of the services of the applicant as the complaint made one of the candidates was examined and accordingly the necessary orders were issued from the office of the Post Master General, Allahabad cancelling the appointment of the applicant so made from the office of the answering deponent. In this eventuality, order dt. 29.01.99 is perfectly legal and does not suffer from any illegality whatsoever. "



2. From the aforesaid averments made in the C.A it is clear that the appointment of the applicant was cancelled on the basis of complaint. However, he was not afforded any opportunity of hearing. The order has thus been passed <sup>in</sup> gross violation of principles of natural justice and can not be sustain.

3. Learned counsel for the respondents has further submitted that in place of the applicant, appointment has already been made on regular basis and person effected has not made a party. Hence, the applicant is not entitled for any relief.

4. However, we do not agree with the submission of learned counsel for the respondents. This Tribunal by order dt. 23.03.1999 after hearing the counsel for parties, passed an interim order to the following effect :-

"..... In the meanwhile the respondents are directed not to replace the applicant by another substitute nor hold any selection without considering the applicant as one of the candidates in case the respondents holds any selection for the post. "

The aforesaid interim order was extended for time to time and still in operation. In view of the aforesaid interim order it was not open to the respondents to appoint any body and if any appointment has been made it would be treated to <sup>be void being in</sup> ~~next~~ violation of order of this Tribunal. However, any action of the respondents during the pendency of this O.A is subject to the decision in the O.A. It can not be disputed that



on the date of representation of the applicant, no body else was appointed and it was not possible to applicant to implead any body. The relief granted in this O.A can not be ~~defeated~~ by any action of the respondents taken during the pendency of the O.A.

5. For the reasons stated above this application is allowed. The impugned order dt. 13.01.1999 and orders on which basis the order was passed are hereby quashed. The applicant shall be entitled to <sup>u</sup> ~~be~~ re-instated. However, he will not be entitled for the ~~arrears~~ <sup>u</sup> ~~expenses~~ except for the dates he has worked on the post. Further, we make it clear that it would be open to the respondents to pass the fresh order in the light of observations made in this order.

6. There will be no order as to costs.

V. Mapa  
Member - A.

L  
Vice-Chairman.

/Anand/