

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 28th day of March 2001.

Original Application no. 1286 of 1999

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Hon'ble Maj Gen K.K. Srivastava, Administrative Member

Smt. Munni Devi,  
Daughter of Sri Siddhpal Rathor,  
R/o vill and P.O. Sajpurapur Saraiya,  
Distt. Kannauj.

... Applicant

C/A Sri K.C. Shukla

Versus

1. Union of India, through Secretary,  
Post and Telegraph Department,  
NEW DELHI.

2. Director General, Department of Post India,  
Ashok Road, Dak Bhawan,  
NEW DELHI.

3. Senior Superintendent of Post Offices,  
Agra Division.  
AGRA.

... Respondents

C/Rs Km. Sadhana Srivastava

...2/-

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O R D E R (Oral)

Hon'ble Mr. SKI Naqvi Member-J.

In response to advertisement the year 1994-95 by the Senior Supdt. of Posts & Telegraphs (SSPO) the applicant applied for the post of Postal Assistant in the respondents establishment at Belanganj, Agra. The selection process took place and the applicant was finally selected under OBC head vide appointment letter dated 07.10.1997 and she joined accordingly on 07.10.1997, as Postal Assistant at Sub Post Office, Belanganj, Agra. She continued as such till service of impugned termination order dated 23.09.1999 passed in pursuance of rule 5, Sub rule 1 of Central Civil Services (temporary service) Rules, 1965. Against this order she has come up seeking relief to the effect that the impugned termination order be quashed and respondents be directed to allow her to function as Postal Assistant, at Sub Post Office, Belanganj, Agra.

2. The main grounds referred by the applicant are that no reason has been assigned in the termination order, junior to her has been retained and thereby violation of article 14 and also on the ground that no opportunity of hearing was given before the impugned order was passed and thereby violation of principle of natural justice.

3. The respondents have contested the case,

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filed counter affidavit with the specific mention  
that the services of the applicant <sup>have</sup> been terminated  
because on verification it was found that the certificate <sup>filed</sup>  
in support of educational qualificat <sup>is found</sup>  
forged and, therefore, her services <sup>been terminated.</sup>

4. Heard learned counsel for the rival contesting  
parties and perused the record.

5. Learned counsel for the applicant took us  
through ratio in Krishna Kumar Sharma Versus State  
of UP, 1992 ESC pg 307 (Alld) wherein it has been held  
that while terminating services it was incumbent  
upon the authorities concern to afford full opportunity  
to the applicant before reaching the conclusion and  
inflicting the order of termination. He also referred  
ratio in Om Veer Singh Vs DIG Police Allahabad, (1999)  
Vol 2 ESC pg 1363 (Alld), in which it has been held  
that even where the petitioner's services were termina-  
ted on the ground of obtaining appointment on using  
a forged certificate. Opportunity of hearing must be  
given to the petitioner to defend.

6. We also had occasion to go through para 53  
relied in  
of Gujrat Steel Tubes Ltd Vs. Mazdoor Sabha, 2000 SCC  
(L&S) pg 362, Nar Singh Pal Vs. Union of India and Others,  
in which a <sup>su</sup> ~~very valuable~~ <sup>su</sup> guide line has been provided  
as under :-

"Masters and servants cannot be permitted

JK

...4/-

to play hide and seek with the law of dismissals and the plain and proper criteria are not to be misdirected by minological cover-ups or by appeal to c processes but must be grounded on the substantive reason for the order, whether disclosed or undisclosed. The Court will find out from the proceedings or documents connected with the formal order of termination what the true ground for the termination is. If, thus scrutinised, the order has a punitive flavour in cause or consequence, it is dismissal. If it falls short of this test, it cannot be called a punishment. To put it slightly differently, a termination effected because the master is satisfied of the misconduct and of the consequent desirability of terminating the service of the delinquent servant, is a dismissal, even if he had the right in law to terminate with an innocent order under the standing order or otherwise. Whether, in such a case the grounds are recorded in a different proceeding from the formal order does not detract from its nature. Nor the fact that, after being satisfied of the guilt, the master abandons the inquiry and proceeds to terminate. Given an alleged misconduct and a live nexus between it and the termination of service the conclusion is dismissal, even if full benefits as on simple termination, are given and non-injurious terminology is used."

7. For the above position in view we find ourselves unable to sustain the impugned order which

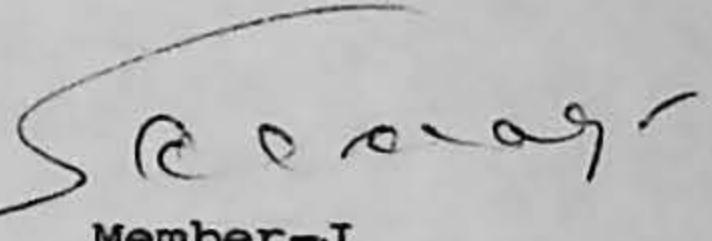
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*(Signature)*

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is quashed accordingly. The applicant be reinstated to the post from which she was terminated, immediately on communication of this order. However, it is provided that the respondents may in fresh proceedings keeping in view the above reservation and pass orders after affording due opportunity of being heard to the applicant. In case the respondents initiate fresh proceedings, the matter regarding payment of salary to the applicant during the period in between her termination, as per impugned order, and reinstatement shall be decided by the competent authority. The O.A. is decided accordingly. No order as to costs.

  
Member-A

  
Member-J

/pc/