

Open Court

Central Administrative Tribunal  
Allahabad Bench Allahabad.

Original Application No.276 of 2000.

alongwith

Original Application No.277 of 2000.

Allahabad this the 12th day of March 2004.

Hon'ble Maj Gen K.K. Srivastava, A.M.

Hon'ble Mr. A.K. Bhattacharya, J.M.

Janardan Prasad Yadav  
son of Sri Buddhiram Ram,  
Resident of Village Suchitpur Baghauna,  
P.O. Baida Bazar, District Mahrajganj.

.....Applicant.

(By Advocate : Sri K.K. Tripathi)

Versus.

1. Union of India through Director General Post Offices, New Delhi.
2. Post Master Kunaraghata, Gorakhpur.
3. Sub. Divisional Inspector (P), Anand Nagar, Gorakhpur.
4. Ramesh S/o Ram Sawar Pasawan, as Runner at P.O. Baida Bazar District Mahrajganj.

.....Respondents.

(By Advocate : Sri S.C. Chaturvedi/  
Sri Pankaj Srivastava)

along with

Original Application No.277 of 2000.

Mathura Prasad Gupta  
son of Sri Kanhaiya Pd. Gupta,  
Resident of Village Dhankhari, P.O.  
Kamasin- Khurd, District Mahrajganj.

.....Applicant.

(By Advocate : Sri K.K. Tripathi)

Versus.

1. Union of India through Director General Post Offices, New Delhi.

2. Post Master Kunaraghata, Gorakhpur.
3. Sub. Divisional Inspector (P) Anand Nagar, Gorakhpur.
4. Sri Yogendra Singh  
S/o Sri Seshmani Singh  
R/o Village Sonbarsa, P.C. Maulaganj,  
District Mahrajganj.

.....Respondents.

(By Advocate : Sri S Chaturvedi).

O R D E R

(By Hon'ble Maj Gen K.K. Srivastava, A.M)

Since the facts in both the OAs are identical and reliefs claimed are also identical, the O.As are decided by a common order leading O.A. being O.A. No. 276 of 2000.

O.A. No. 276/2000:

2. The applicant has challenged the order dated 25.02.2000 by which the services of the applicant as Extra Departmental Runner (in short E.D. Runner) P.O. Baida Bazar, District Mahrajganj have been terminated.

3. The facts, in brief, are that the applicant was appointed as E.D.Runner, P.O. Baida Bazar District Mahrajganj vide order dated 05.02.1999 (Annexure A-3) and he joined his duties on 08.02.1999. His services were terminated vide impugned order dated 25.02.2000 (Annexure A-1) under Rule 6 of E.D.A (C&S) Rules, 1964.

O.A.No. 277/2000

4. The applicant has challenged the order dated 25.02.2000 by which his services as E.D.D.A (Extra Departmental Delivery Agent) (Mail Carrier) P.O. Maulaganj, District Mahrajganj have been terminated.

5. The facts, in short, are that the applicant was

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appointed as E.D.D.A (Mail Carrier) P.O. Maulaganj, District Mahrajganj vide order dated 06.07.1999 (Annexure A-3) and he joined his duties on 12.07.1999. The services of the applicant have been terminated by impugned order dated 25.02.2000 and applicant has been relieved from charge on 26.02.2000.

6. In both the O.As, the applicants have prayed for quashing the termination order/notice dated 25.02.2000 with direction to the respondents to continue on their posts and also payment of regular salary as and when due.

7. As per facts of the O.A. No.276 of 2000, the post of E.D. Runner at Branch Post Office Baida Bazar, District Mahrajganj was vacant. The applicationse were called for. The names from the Employment Exchange including the name of the applicant was sponsored by the Employment Exchange. After completion of due formalities and police verification the appointment letter dated 05.02.1999 (Annexure A-3) was issued to the applicant and applicant joined his duties on 08.02.1999. The grievance of the applicant is that by the impugned order dated 25.02.2000, the services of the applicant have been terminated hence this O.A. which has been contested by the respondents by filing counter affidavit.

8. Heard counsel for the parties, considered their submissions and perused the records.

9. The learned counsel for the applicant submitted that the applicant was appointed against the regular vacancy after due process of selection and therefore, he should have been given a show cause notice and opportunity. We find substance in the contention of the learned counsel for the applicant. The plea taken by the respondents in para 7 of the counter affidavit that since the procedure was not followed it was found by the

Higher Authorities that the appointment of the applicant had to be cancelled, is not acceptable to us. The procedure of show cause notice should have been given to the applicant and after receiving his reply, respondents could take action as per law. Issuing a simple notice of termination of the applicant after one month automatically under Rules 6 shall not be applicable in this case because the applicant had been selected for the post <sup>in regular basis</sup> after due process of selection. The respondents in the entire counter have nowhere stated specifically as to how the appointment of the applicant was irregular. In our opinion, the action of the respondents is violative of principles of natural justice. The applicant has worked on the post for about one year and as per the applicant the work and conduct of the applicant has been to the entire satisfaction of his Superiors. The respondents have nowhere stated in the counter as to what prompted them to review the case of the applicant and also ground on which they found the appointment of the applicant as irregular. The proper course for the respondents was to have issued a proper show cause notice ~~given~~ and <sup>an</sup> opportunity of hearing if required and then pass the appropriate order. This has not been done.

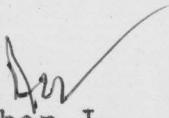
10. Sri Pankaj Srivastava learned counsel for the respondents submitted that respondent No.4 was appointed vide order dated 02.09.2000 as E.D. Runner provisionaly. The respondent No.4 has worked on the post continuously for more than three years and therefore, the right has accrued to the respondent No.4 for appointment on the post. There is no doubt that the respondent No.4 has worked on the post for more than three years but respondent No.4 has failed to annex appointment letter. He has simply filed the charge report dated 31.08.2000

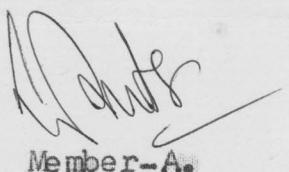
as Annexure A-1 to the counter filed by the respondent No.4. Thus, it is ample clear that the applicant was engaged on the post. Since he has already worked on the post for more than three years, the case of the respondent No.4 deserves to be considered for an alternate appointment as E.D. employee by the respondents.

11. In the facts and circumstances and our aforesaid discussions, the O.A. No. 276 of 2000 and 277 of 2000 are allowed. The impugned orders dated 25.02.2000 in both the O.As are quashed. The following directions are given :

- (a) The applicants in both the O.As are to be reinstated on their respective posts within one month from the date the order of this Tribunal is filed before them.
- (b) The applicants shall not be entitled for any back wages.
- (c) The respondents shall consider the case of the respondent No.4 in both the O.As for giving them alternate appointment in accordance with law.

12. There shall be no order as to costs.

  
Member-J.

  
Member-A.

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