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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

Dated: Allahabad, the 21st day of December, 2000

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, VC

Hon'ble Mr. S. Dayal, A.M.

Original Application No. 486 of 2000

Subhash Chand Yadav, a/a 41 yrs.,
son of Sri Ram Harsh Yadav,
E. D. B. P. M. Badha Gardha Gorakhpur,
District Gorakhpur.

..... Applicant
(By Advocate Sri R.P. Singh)

Versus

1. Union of India, through Secretary,
Department of Post and Telegraphs,
New Delhi.
2. Post Master General, Gorakhpur.
3. Senior Superintendent of Post Offices,
Gorakhpur.

..... Respondents.

ORDER

(OPEN COURT)

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

The facts giving rise to this application are that the applicant Subhash Chandra Yadav was appointed as Extra Departmental Branch Post Master under the appointment order dated 5th November, 1999 on temporary basis. The service of the applicant, however, has been terminated by an order dated 13th April, 2000 (Annexure No.1 to the OA) under Rule 6-B of Post and Telegraph Extra Departmental

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Agents (Conduct & Service) Rules, 1964 (hereinafter referred to as the 'Rules'). Aggrieved by the said order, this application u/s 19 of the Administrative (Tribunals) Act, 1985 has been filed.

2. The learned counsel for the applicant has submitted that though in the impugned order, it is stated that it has been passed under Rule 6-B of the Rules, the true facts are that the appointment of the applicant has been cancelled by the Respondents on the basis of some alleged irregularity, ^{and the nature} ^{of which} has not been disclosed. Reliance has been placed by the learned counsel for the applicant on Para- 17 of the Counter Affidavit, which reads as under:-

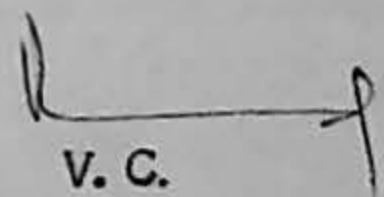
" That contents of para 4.5 of the Original application are matters of record. However, it is stated that the said appointment having been found to be irregular and has been cancelled vide order dated 13th April, 2000".

The learned counsel for the applicant has also relied on the Full Bench judgment of this Tribunal in the case of Balakdhari Yadav Vs. Union of India and others (1997) 36 ATC 536. The learned counsel for the applicant has also submitted that the appointment of the applicant was made on regular basis after obtaining the names from the Employment Exchange, as shown in Para-4 of the counter affidavit.

3. We have considered submissions of the learned counsel for the applicant and, in our opinion, submissions have force. Under Rule 6-B of the Rules, service can be terminated by an order simpliciter without causing any stigma against the applicant. However,

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the order, though appears an order terminating the services simpliciter, but in view of the allegations made in the counter affidavit that appointment of the applicant has been cancelled on account of some irregularity, it appears that the provisions of Rule 6-B ^{have been used as} ~~is~~ a camouflage and, in fact, appointment of the applicant has been cancelled. In case the appointment of the applicant suffered from any irregularity/illegality, it could, no doubt, be cancelled by the Respondents. But before that, the applicant was entitled for a show-cause notice and opportunity of hearing, which unfortunately has not been done in this case. The nature of the irregularity also has not been disclosed. In the circumstances, in our opinion, as the order has been passed in violation of principle of natural justice, it cannot be sustained. The O.A. is accordingly allowed. The impugned order dated 13th April, 2000 is quashed. The applicant shall be entitled for reinstatement on the post ^{but will not be entitled to} ~~with~~ back wages. However, it shall be open to the respondents to pass fresh order in accordance with law. There will be no order as to costs.


A.M.
V. C.

Nath/