

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 18th Day of August, 2000.

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

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

Original Application No. 908 of 2000.

Smt. Leela Bhandari,
Wife of Late Sri Bhupendra Singh,
• R/o Village Sirpoli (Toli)
Post Office Toli (Gurna)
Distt. Pithoragarh.

. . . Applicant.

Counsel for the applicant Sri J.C. Pandey, Adv.

Versus

1. Union of India through the Secretary of
Tele Communication Secretariate, New Delhi.
2. Post Master General, Post and Telegraph
Department, Bareilly.
3. Superintendent of Post Office, Pithoragarh.

. . . Respondents.

Counsel for the Respondents: Sri R.C. Joshi, Adv.

Order (Open Court)

We have heard learned counsel for the applicant
and Sri Manoj Kumar holding brief of Sri R.C. Joshi
Senior Standing counsel for respondents 1 to 3.

2. This application has been filed under section
19 of the Administrative Tribunals Act 1985
challenging the order dated 9.8.2000 by which the



appointment of the applicant on the post of E.D.B.P.M. has been cancelled. The learned counsel for the applicant has submitted that before passing this order no opportunity of hearing was given to the applicant and the order is violative of principles of natural justice and can not be sustained.

3. The next submission of learned counsel for the applicant is that from perusal of the order it is clear that it has been passed at the dictates of Post Master General Bareilly communicated through letter dated 27.7.2000 and Appointing Authority has not applied its mind whether the services of the applicant were required to be terminated under Rule 6 of E.D.A. (Conduct and Service) Rules.

4. The learned counsel for the applicant has placed reliance on the order of this Bench in case of Jagdamba Prasad Pandey Vs. Union of India and others 1988 U.P.L.B.E.C. 101 (Tri). Sri Manoj Kumar ^{appearing} learned counsel/for the respondents could not justify ^{as to} ~~from the order that~~ how the impugned order can be sustained. However, he submitted that if the impugned order is set aside, the liberty may be given to the respondents to pass fresh order after providing opportunity of hearing ^{as to} of the applicant.

5. We have carefully considered the submissions of the learned counsel for the parties.

6. There is no doubt that the order dated 9.8.2000 Annexure-1 impugned in this application entailed ^u serious civil consequences against



applicant as her appointment has been found to be irregular without giving her opportunity of hearing. The Division Bench of this Tribunal in case of Jagdamba Prasad Pandey (Supra) has held that under Rule 6 of E.D.A. (Conduct and Service) Rules, the appointing authority alone has the power to terminate the services of an Extra Departmental Agent and the Director Postal Services has not been vested with such powers. In this case order dated 14.12.87 passed by Superintendent Post Offices, ^{has u} ~~is~~ in compliance with the directions of the Director Postal Services and the Superintendent of Post Offices in passing ^{the u} ~~such~~ order, has not done so after exercising his own judgment and discretion. ^{the court held that the u} ~~In our opinion this~~ order has been passed without the application of mind of the competent authority and is not sustainable in law.

7. The aforesaid judgment is squarely applicable in the facts of the present case. The impugned order has been passed by Superintendent Post Offices in pursuance of the order passed by Post Master General Bareilly, ^{f u} ~~and~~ communicated vide letter dated 27.7.2000. There is no material on record to show that the competent authority applied its mind to the facts and circumstances of the case and then passed the order under rule 6. The order thus can not be sustained.

8. For the reasons stated above, this application is allowed. The order dated 9.8.2000 (Annexure-1) is

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quashed. The applicant shall be reinstated on her post with all the benefits. However, it is left open to the respondents to pass a fresh order in accordance with law after giving an opportunity of hearing to the applicant.

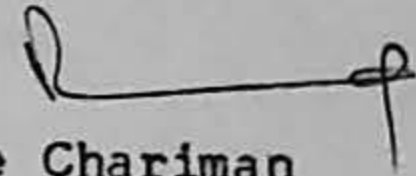
There shall be no order as to costs.



Member (A.)



Nafees.



Vice Chariman