

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 11th day of February, 2002.

Original Application No. 948 of 2000.

CORAM :-

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

Hon'ble Mr. AK Bhatnagar, J.M.

Nand Lal Chaudhary S/o Shri Bindra Prasad,
Resident of Village Naudihwa, Birdpur No.10 Tola,
P.O. Bishunpur, Tehsil Naugarh, Distt-Siddharthnagar,
employed as E.D.R. Mundila Khatai in the District
Siddharth Nagar.

(Sri MK Upadhyaya, Advocate)

..... .Applicant

Versus

1. Union of India through the Secretary,
Ministry of Communications, Depoartment of Posts,
Dak Bhawan, New Delhi-110001
2. Post Master General, Gorakhpur Region,
Gorakhpur-273008
3. Supdt. Post Offices, Basti Division,
Basti-272001
4. S.D.I.(Postal), Tetri Bazar Sub Division,
Siddharthnagar-272207.

(Sri SC Tripathi, Advocate)

..... . Respondents

O R D E R (O_r_a_1)

By Hon'ble Maj Gen KK Srivastava, A.M.

In this OA filed under Section 19 of the
Administrative Tribunals Act, 1985, the applicant has
challenged the termination order dated 30-6-2000
(Annexure-1 to the OA) passed by respondent no.4 and
has prayed that the impugned order of termination dated
30-6-2000 be quashed and a direction be issued to
respondent no.1 to take the applicant on duty w.e.f.
01-7-2000 with all consequential benefits.

2. The facts in brief giving rise to this OA are
that the applicant was appointed as E.D.R. at Mundila
Khatai on 13-4-1999 by respondent no.4. His services

were terminated by the impugned order dated 30-6-2000 without assigning any reason and giving any show cause notice, aggrieved by which the applicant has filed this OA before the tribunal. The respondents have contested the OA by filing a counter affidavit.

3. We have heard counsel for the parties and perused the records carefully.

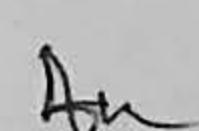
4. Sri MK Upadhyaya, learned counsel for the applicant invited our attention to the impugned order dated 30-6-2000 and submitted that the services of the applicant have been terminated on the instructions of Postmaster General, Gorakhpur Region (respondent no.2) without affording any opportunity to the applicant to present his case before the respondents. Sri SK Pandey, counsel for the respondents submitted that the OA is not maintainable as the alternative remedy has not been exhausted. Learned counsel also invited our attention to para 2 of the impugned order dated 30-6-2000 and submitted that the appointment of the applicant was purely temporary and was liable to be terminated any time without assigning any reason. He further submitted that the appointment file of the applicant was reviewed by respondent no.2 on the basis of a complaint received against the irregular appointment of the applicant. Respondent no.2 examined the case in detail and only then passed the order of cancellation of the appointment of the applicant. The said appointment was against the rules. The respondents have a right to review and amend the same.

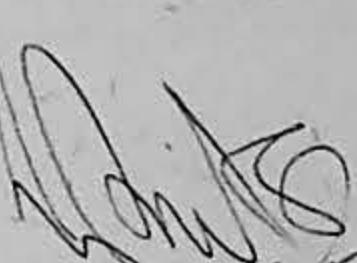
5. Admittedly the termination of the applicant was ordered by the higher authority i.e. respondent no.2. The appointment letter of the applicant placed at Annexure-1 to the OA has been issued by respondent no.4. It is settled principles of law that once an

appointment has been made and a candidate has joined, his services cannot be terminated without giving reasonable opportunity to the employee. There is no doubt that the higher authority has power to review the appointment made by his subordinates but that does mean that an employee should be denied the legal right of representing his case before the higher authorities. In the instant case the proper course open for the respondents was to have given a show cause notice and the applicant also should have been given an opportunity of hearing and only then action should have been taken, which in the instant case has not been done.

6. We are of the view that the ends of justice will be better served if the case of the applicant is re-examined in the light of the above observations.

7. In view of the facts and circumstances stated above, the impugned order dated 30-6-2000 (Annexure-1 to the OA) is quashed. The applicant will be reinstated immediately. However, the respondents are given opportunity to re-examine the case of the applicant and take appropriate action in accordance with law. W.e.f. 1-7-2000 till the date of reinstatement, ^{the} applicant shall be entitled for 50% back wages. No costs.


Member (J)


Member (A)

Dube/