

(12)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

*NO  
Relieved from  
service*

**O.A. No.** : 271 OF 1990  
~~XXXNOX~~

**DATE OF DECISION** 04. 01. 1993

Jayeshkumar Prabhudas Tanna Petitioner

R. A. Mishra

Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri Akil Kureshi

Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. N.V. Krishnan Vice Chairman.

The Hon'ble Mr. R.C. Bhatt Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Jayesh Kumar Prabhudas Tanna,  
Ex, Night Guard,  
Malia Hatina,  
at present at Sherbaug,  
Dist. Junagadh.  
Pin. 362 255.

...Applicant.

( Advocate : Shri R.A.Mishra )

Versus

1. Union of India,  
through Chief Post Master General,  
Gujarat Circle,  
Opp. Income Tax Office,  
Ashram Road,  
Ahmedabad - 380 009.
2. Director of Postal Service,  
Rajkot Region,  
Gandhi Road,  
Rajkot.
3. Superintendent of Post Office,  
Junagadh Division,  
Gandhigram,  
Junagadh.

...Respondents.

( Advocate : Shri Akil Kureshik )

O R A L O R D E R  
O.A.NO. 271 of 1990.

Date: 04.01.1993.

Per : Hon'ble Mr.R.C.Bhatt : Member (J)

This application under Section-19 of the Administrative Tribunal Act, 1985, is filed by an applicant a part time Night Guard who was working with the Postal Department seeking the relief to quash and set aside the impugned order dated 5.12.1989, vide Annexure-A/2, by which the applicant working on contingent paid night guard at Maliya Hatina was relieved immediately by engaging other suitable person.

...3...

2. The case of the applicant is that he was serving as a night guard by order dated 16th February, 1987, vide Annexure-A/1, and the said post was part time contingent paid night guard. It is not disputed that at that time the applicant's father was Sub.Post Master and he appointed the applicant on the post as part time contingent. The applicant has produced at Annexure-A/1, the appointment order dated 16th Feb.1987. It is alleged by the applicant that his services are terminated vide order dated 5.12.1989, vide Annexure-A/2, without giving him show cause notice or without any procedure. It is alleged by the applicant that the applicant's father has filed one O.A.179 of 1990 on the point of the alleged loss and on the departmental action. The applicant on receiving the order Annexure-A/2, filed representation Annexure-A/3, dated 13th November,1989 and Annexure-A/4, dated 8th Jan.1990, respectively written by the Secretary of the Staff Union to the Director of the Postal Services. The case of the applicant is that the order Annexure-A/2, is bad in law and void, that as he has served for more than 240 days, his services cannot be terminated without assigning any cause or reason.

3. The respondents have filed reply contending that the applicant was continued on the work upto 4.12.1989, as mentioned in para-4 of the reply. It is contended that during the enquiry of the loss of Chorvad cashbag containing a remittance of Rs.10,000/- by the A.S.P.O.'s, Vigilance Rajkot, it was found that Mr.P.R.Tanna, the then Sub Postmaster Malia-Hatima

had engaged his son J.P.Tanna, i.e., the applicant, as a contingent paid night-guard of the office in contravention of rules, and to regularise the irregularity, the Director Postal Services, Rajkot, Region, Rajkot had informed the S.P.O.'s Junagadh, to stop such arrangement vide his memo dated 31st Oct. 1989, and ultimately the applicant was relieved by the impugned order.

4. The contention of the respondents is that after the theft case of Chorvad cash bag, the Sherbaug and Chorvad S.O.s were transferred in the account jurisdiction of Veraval Head Office and consequently the post of contingent paid night guard was to be abolished and the department had taken the decision to abolish the said post and therefore, the applicant's discharge is valid and the other ground is that the applicant's father had appointed this applicant which was an irregular and illegal appointment, in contravention of rules.

5. We have perused the pleadings and documents on record and we have heard the learned advocates for the parties. There is much substance in the contention of the respondents that the appointment of the applicant was made by his father which was in contravention of rules and to stop that irregularity any further, the Regional Director, Postal Services, Rajkot Region, Rajkot, vide his letter dated 31st October, 1989, wrote a letter to ~~XXXXXX~~ Sub Postmaster, Malia Hatina for necessary action. It was also decided by the respondents Head Office to abolish the post and the respondents have already abolished the said post. The

order Annexure-A/2, is not an order of punishment. It is an order simpliciter discharging the applicant from service, and it ~~is~~ does not contain any stigma. There is no illegality committed by respondents in passing this order. In our opinion, the respondent's contention that the applicant was discharged from service ~~on~~ <sup>in view of</sup> the two grounds as mentioned in the reply have much substance. We do not see any substance in the application of the applicant that the order Annexure-A/2, is void or bad or against the principles of natural justice.

6. Hence we pass the following order :

ORDER

"The application is dismissed with no order as to costs."

*Tenzil*

( R.C.Bhatt )  
Member (J).

*N.V.Krishnan*  
( N.V.Krishnan )  
Vice Chairman

AIT