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(5)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

NO  
Termination

O.A. No./482/90  
~~Exhibit No. 1~~

DATE OF DECISION 13.4.1993

Babulal Pithabhai Vasvate Petitioner

Mr. D. K. Mehta Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. Akil Kureshi Advocate for the Respondent(s)

## CORAM :

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

The Hon'ble Mr. V. Radhakrishnan, Member (A)

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 ?

Re

Babulal Pithabhai Vasvata

.. Applicant

Vs.

1. Union of India,  
Through:  
The Director, General,  
Post & Telegraphs Deptt.,  
Parliament Street,  
New Delhi.
2. The Post Master General  
(Gujarat State),  
Navrangpura,  
Ahmedabad-9.
3. Superintendent of Post Offices,  
Junagadh Division,  
Gandhigram,  
Junagadh.
4. Nalinkumar Durgashanker Thaker,  
E.D. Branch Post Master,  
Chokli, Via Vadali,  
Dist. Junagadh.

.. Respondents

J U D G M E N T

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O.A./482/90

Date: 13.4.1993

Per : Hon'ble Mr. V. Radhakrishnan, Member (A).

1. This application is filed against the oral termination of services of the applicant, who was working as E.D.B.P.M. at Chokli Post Office by the respondent no. 3 by appointment of respondent no. 4, Shri Nalinkumar Thakor, by order dated 25th September, 1990. The applicant has stated that the impugned order is illegal, un-reasonable, and in contravention of Article 14, 16 and 311 of the



Constitution of India, and against the principle of natural justice. The applicant states that he was appointed as EDBPM at Chokli by the 3rd respondent without any appointment order with effect from 27th March, 1990. He was working in this post from 27th March, 1990, to 1st October, 1990. The applicant states that he is qualified in S.S.C. examination and fully satisfies eligible critria for the appointment to the post of EDBPM as he has sufficient means of livelihood and he is a permanent resident of village Vadal which is just at about 4 kms. distance from Chokli. He is having the card from the Employment Exchange. The applicant states that he was earning honorarium Rs. 250/- at that time as organiser of midday meal scheme at Chokli. The applicant questions the qualification of the respondent no. 4 as alleges and that appointment was made out of great influence. Hence, the applicant challenges the termination of his services as violative of guarantees provided by Constitution of India and also violative of law under the Industrial Disputes Act.

3. The respondents have filed the reply. They have stated that Shri C.P. Vasveliya who was working as Branch Post Master at Chokli Branch Post Office upto 26.3.1990, had handed over the charge of the Branch Post Office to the applicant on his own accord and relieved himself after passing the Departmental Examination. The applicant, there-

(8)

fore, working as Branch Post Master, Chokli, without any appointment un-authorisedly. The Department after following the proper procedure of selection had called names from Employment Exchange and candidate Shri A.P. Thaker, respondent no. 4, was appointed as per provisions of Rule 11 of Section II (Method of Recruitment) of Conduct and Service Rules, for Extra Department Staff, 1964. They have stated that the candidate for the post must be a permanent resident of the Village where the Post Office is located and under Rule 3 of the said Rules, the candidate must also have adequate means of livelihood from other sources. The claim that the applicant was not sponsored by the Employment Exchange at the time of Recruitment. He was also not a local resident of Village Chokli. It is also claimed that the applicant did not have sufficient income for livelihood. Hence, he was not qualified for appointment as EDBPM. Therefore, they have denied that, the action of the respondents was arbitrary, in-valid, as the applicant was unfit for the post of EDBPM, as he did not fulfill the criteria for the appointment to the said post. The applicant was holding the charge of the said post without any authority and when the regular candidate was available for the post of EDBPM the applicant was asked to hand over charge to respondent no. 4 who was regularly selected from the Employment Exchange.

4. Heard learned advocates Mr. Mehta, for the

applicant and Mr. Kureshi, learned advocate for the respondents.

5. Mr. Mehta argued that the applicant was working for the post of EDBPM from 27th March, 1990, to 1st October, 1990, with utmost sincerity and utmost satisfaction to his superior. The termination of services of the applicant without following the Rules and procedure was bad in law. The learned advocate Mr. Kureshi argued that the applicant was holding the post without any authority as no appointment order was issued to the applicant. He was also not sponsored from the Employment Exchange. He did not fulfill the eligible critria prescribed for the appointment and was not sponsored by the Employment Exchange.

6. After the hearing of both the learned advocates, we find that the applicant had not been able to prove that his termination was not legal. He was holding the post of EDBPM without any formal appointment. He was also not sponsored from the Employment Exchange. Hence, this application does not succeed. Hence, we pass the following order:

7.

O R D E R

The application is dismissed. However as prayed for by the applicant, the department may consider the applicants' candidature for any suitable post that may arise in future according to Rule, if any such representation made by him. No order as to costs.

  
(V. Radhakrishnan)  
Member (A)

  
(R.C. Bhatt)  
Member (J)