

No  
Termination

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

O.A. No. 343 OF 1992

~~T.A. No.~~

DATE OF DECISION 30-11-1992

Shri Kantibhai Parmar, \_\_\_\_\_ **Petitioner**

Mr. C.S. Upadhyay, \_\_\_\_\_ **Advocate for the Petitioner(s)**

**Versus**

Union of India & Ors. \_\_\_\_\_ **Respondent s**

Mr. Akil Kureshi, \_\_\_\_\_ **Advocate for the Respondent(s)**

**CORAM :**

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

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

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 ? ✗

Shri Kantibhai Parmar,  
son of Purshottambhai Parmar  
residing at Machhava District,  
Mehsana, at present working  
as Branch Post Master  
(Extra Departmental) at  
Machhava.

..... Applicant.

(Advocate: Mr. C.S. Upadhyay)

Versus.

1. Union of India, notice  
to be served through the  
Chief Post Master General,  
Gujarat Circle,  
Ahmedabad.

2. The Senior Superintendent  
of Post Office,  
Mehsana.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 343/1992

Date: 30-11-1992.

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

Heard Mr. C.S. Upadhyay, learned advocate for  
the applicant and Mr. Akil Kureshi, learned advocate  
for the respondents.

2. This application, under section 19 of the  
Administrative Tribunals Act, 1985, is filed by the  
Extra Departmental Branch Post Master at Machhava  
seeking the relief that the ~~actbn~~ of the respondents to  
terminate his services or the cancellation  
of his appointment be held as arbitrary and  
illegal and the respondents be directed to regularise  
the applicant as Branch Post Master with all  
consequential benefits. It is the case of the

applicant that in response to the advertisement published by the Senior Superintendent of Post Offices Mehsana, i.e., respondent No.2, he applied for the post of Branch Post Master at Machhava and his name was also sponsored by the Employment Exchange. He has produced the order Annexure A-1 dated 4th July, 1991 to show that the Sub Divisional Inspector, Post Offices, Sidhpur, had intimated that the applicant had to resume his duties as Postman, Ellisbridge. The documents dated 24th July, 1991 Annexure A-2 shows that the appointment of the applicant was provisional appointment from 16th July, 1991 to 15th October, 1991 till the regular appointment was made. There is another order Ann.A-2 which shows the extension of period of the appointment of the applicant from 16th October, 1991 to 15th January, 1992. Annexure A-3 is another letter dated 9th September, 1991 which shows that the applicant has been selected as Branch Post Master, Machhava.

3. The learned advocate for the applicant submitted that the applicant is under the apprehension that his services would be terminated by the respondents and hence this application is filed.

4. The respondents have filed reply contending that the applicant along with five others including one Shri P.C. Bava were called for an interview and initially the then Sr. Superintendent had selected Shri P.C. Bava on 23rd July, 1991 for the said post

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of Branch Post Master, but he subsequently changed that order and selected the applicant. The respondents have contended that subsequently the said appointment of the applicant was reviewed by the Chief Post Master General, Ahmedabad and the appointment of the applicant was found to be irregular and hence the respondents ordered to revise the selection of the applicant and to take Shri P.C. Bava as EDBPM Machhava.


5. The learned advocate for the respondents submitted that the candidate for appointment on the post of BPM should possess immovable property in his own name as per the condition mentioned in the rules relating to the appointment of the post of EDBPM vide Annexure R-1 and as the applicant was not fulfilling this important condition, he was not found fit for appointment as BPM, <sup>while</sup> / Shri P.C. Bava was possessing the required conditions and qualifications and hence he is selected. The respondents have taken this ground in the reply. The other submission of the learned advocate for the respondents is that the applicant was appointed provisionally and as the respondents <sup>have</sup> / now made regular appointment of Shri P.C. Bava, the applicant's services can be terminated and he cannot make grievance about the termination.


6. The applicant has filed rejoinder controverting the contention taken in the reply.

7. In the instant case, though we find that the applicant's appointment was only provisional till the regular appointment was made and though according to the respondents, a regular appointment of Shri P.C. Bava is made as BPM, the question is that the respondents can not be allowed to terminate the services of the applicant orally even if the applicant has not satisfied the condition of possessing immovable property in his own name as per Rules Annexure R-1 produced by the respondents. The respondents should <sup>have given</sup> ~~give~~ show cause notice to the applicant as to why he should not be terminated from service, <sup>in the first instance</sup> ~~because~~ the applicant was actually selected by the respondents and thereafter the case was reviewed on the ground that he does not possess immovable properties in his own name. We, therefore, hold on facts of this case that the respondents cannot terminate the service of the applicant without giving him show cause notice of termination. Hence we pass the following order:

ORDER

The application of the applicant is allowed to the extent that the respondents should not terminate the services of the applicant without giving showcause notice in writing to the applicant stating the reasons for terminating the services of the applicant. Rule is made absolute to that extent. No orders as to cost.

  
(R.C. Bhatt)  
Member (J)

  
(N.V. Krishnan)  
Vice Chairman

vtc.