

III 5

[Downloaded from ascelibrary.org by University of California, San Diego on 06/07/14](#)

...

...

●

- ...

For Respondents: Mr. A.B.Misra, Sr. Standing Counsel  
(Central).

**Abstract**

A N D

0000 0001 0002 0003 0004 0005 0006 0007 0008 0009 0010 0011 0012 0013 0014 0015 0016 0017 0018 0019 0020 0021 0022 0023 0024 0025 0026 0027 0028 0029 0030 0031 0032 0033 0034 0035 0036 0037 0038 0039 0040 0041 0042 0043 0044 0045 0046 0047 0048 0049 0050 0051 0052 0053 0054 0055 0056 0057 0058 0059 0060 0061 0062 0063 0064 0065 0066 0067 0068 0069 0070 0071 0072 0073 0074 0075 0076 0077 0078 0079 0080 0081 0082 0083 0084 0085 0086 0087 0088 0089 0090 0091 0092 0093 0094 0095 0096 0097 0098 0099

1. Whether reporters of local papers may be allowed to see the judgment ? Yes .
2. To be referred to the Reporters or not ? Yes ~~No~~.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes .

J U D G M E N T

K.P. ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant challenges the order passed by the competent authority cancelling his appointment as Extra- Departmental Delivery Agent of Chandra sekhar Prasad Post Office, vide Annexure-4.

2. Shortly stated, the case of the applicant is that he was appointed as an Extra- Departmental Delivery Agent in Chandrasekhar Prasad Post Office in the district of Dhenkanal, vide Annexure-1 dated 7.1.1985 and the appointment was effective from 15.1.1985, vide Annexure-2. The applicant worked as such till 2.1.1986 when his services were terminated. In the meantime the applicant had undergone training at the cost of the Government and this training was undertaken by the applicant by an order passed by the Superintendent of Post Offices, Dhenkanal Sub-Division. Being aggrieved by this termination order contained in Annexure-4, the applicant has invoked the jurisdiction of this Bench for interference.

3. In their counter, the respondents maintained that for filling up of the post of Extra- Departmental Agent in Chandrasekhar Prasad Sub- Post Office names of different candidates were requisitioned from the Employment Exchange, Dhenkanal and the last date for receipt of the names of the candidates were fixed to 30th November, 1984. Simultaneously public notice was issued on 30.10.1984 inviting applications from local

⑤ 7

candidates and it was directed that the application should reach the office of Respondent No.3 i.e, the Asst. Superintendent of Post Offices, Dhenkanal Sub-Division by 20th November, 1984. The applicant did not send the application to the office of Respondent No.3 but he sent it to the office of Respondent No.2 i.e, the Superintendent of Post Offices, Dhenkanal Division stationed at Dhenkanal and his application was received in the office of Respondent No.2 by the due date i.e, 20th November 1984 and Respondent No.2 sent the same to Respondent No.3 which was received by Respondent No.3 on 23rd November 1984. This was subsequently detected by the Director of Postal Services, Sambalpur Region, Sambalpur who ordered cancellation of the appointment of the applicant under Rule 6 of the E.D. Agents Conduct Rule, 1964 and therefore it was maintained by the respondents in the counter that due to such illegality committed by the applicant, his appointment was rightly cancelled and there being no merit in the case, it is liable to be dismissed.

4. We have heard Mr. P.V.Ramdas, learned counsel for the applicant and Mr. A.B.Misra, learned Sr. Standing Counsel for the Central Government at some length. We have also perused the provisions contained under Rule 6. After giving our anxious consideration to the arguments advanced at the Bar, we are of opinion that cancellation of the appointment of the applicant is on very technical and untenable grounds. Admittedly, the application of the applicant was received within the



VI 8

stipulated period. The only mistake committed by the applicant is that instead of sending the application to the Asst. Superintendent of Post Offices, Dhenkanal Sub-Division stationed at Dhenkanal he had sent the application to the Superintendent of Post Offices, Dhenkanal Division stationed at Dhenkanal. Admittedly the Superintendent of Post Offices is higher in rank than the Asst. Superintendent of Post Offices. If the application would not have been received within the stipulated period, it would have been justified on the part of the competent authority to take an adverse view against the applicant but the application having been received in time, we think it was too technical on the part of the Director of Postal Services, Sambalpur Region, Sambalpur to have cancelled the order of appointment of the applicant which, in our opinion, is not justifiable. Before making any such appointment, the competent authority could have noticed this fact and after allowing the applicant to serve practically for a year it was not only unjustifiable but a cruelty to snatch away the bread and butter given to the applicant. Before cancelling the appointment of the applicant, the Director of Postal Services, Sambalpur should have borne in mind that the applicant had undergone training for a good bid of time at Government cost and therefore this technical defect should not have been taken serious notice of by the Director of Postal Services.

5. In the circumstances stated above, we would unhesitatingly hold that the cancellation of the appointment of the applicant is against all cannons of

justice, equity and fair play . Therefore, we would hereby quash the order of cancellation of the appointment of the applicant contained in Annexure-4 and we direct that the applicant should be reinstated into service within one month from the date of receipt of a copy of this judgment.

6. Thus, the application stands allowed leaving the parties to bear their own costs .

*hga* 30.10.87.  
.....  
Member ( Judicial )

B.R. PATEL, VICE CHAIRMAN,

*g agree.*



*B.R. Patel* 30.10.87  
.....  
Vice Chairman.

Central Administrative Tribunal,  
Cuttack Bench.  
October 30, 1987/ Roy SPA.