

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

12

ORIGINAL APPLICATION NO. 77 OF 1987.

Date of decision

...

March 30, 1988.

Dharanidhar Sahoo, son of Sri Jogeswar Sahoo,
Extra Departmental Delivery Agent (EDDA) in the
Sub- Post Office at Narla, Dist- Kalahandi
At/P.O- Narla, Dist- Kalahandi.

...

Applicant.

Versus

1. Sub-Divisional Inspector (Postal),
Kesinga Sub- Division, Kesinga,
Dist- Kalahandi.
2. Sub- Post Master,
Sub Post Office, Narla,
Dist- Kalahandi.
3. Post Master, Bhawanipatna Post Office,
Bhawanipatna, Dist- Kalahandi.
4. Superintendent of Post Offices,
Bolangir Division, Bolangir.
5. Union of India, through Secretary,
Ministry of Communication, New Delhi.

...

Respondents.

M/s R.K.Kar, B. Chand and
Mrs. Mira Das, Advocates

...

For Applicant.

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

...

For Respondents.

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN
A N D

THE HON'BLE MR.K.P.ACHARYA, MEMBER (JUDICIAL)

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

JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the order contained in Annexure-2 cancelling the appointment of the petitioner is under challenge.

2. Shortly stated, the case of the petitioner is that the petitioner was appointed as Extra Departmental Branch Post Master in the Sub Post Office at Narla within the district of Kalahandi, vide Annexure-1 dated 8.8.1982 and soon thereafter the petitioner joined the said post, the petitioner appointment was cancelled with immediate effect by the SDI(P), Kelsingha Sub-Division vide his Memo No.A/EDDA Narla/87 dated 11.2.1987. Being aggrieved by this order cancelling the appointment of the petitioner, this Bench has been moved with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the appointment of the petitioner has been rightly cancelled because such appointment was provisional and such provisional appointment was cancelled because the petitioner had not gained requisite qualification for holding the post of an Extra Departmental Delivery Agent. According to the Opposite Parties, the petitioner had not passed Class VII and therefore he was not qualified to be appointed as an Extra Departmental Delivery Agent.

4. We have heard Mrs. Mira Das, learned counsel for the petitioner and Mr. A.B.Misra, learned Sr. Standing Counsel for the Central Government at some length. Appointment of the petitioner to the above mentioned post was not disputed

but there was a serious dispute regarding the provisional appointment. From Annexure-1, i.e., the letter of appointment we do not find a single word stating that the appointment was provisional. It is for the first time on 5.3.1987 the SDI (P) intimated the petitioner that the appointment was provisional and the reason for terminating the services of the petitioner which is contained in Annexure-4. In such circumstances, we are not prepared to accept the contention of the learned Sr. Standing Counsel that the appointment was provisional. However, so far as the qualification is concerned, we had an opportunity of going through the rules on the subject. The prescribed qualification is Standard VIII giving preference to Matriculates or its equivalent. Admittedly, the petitioner has not passed Class VIII. Prima facie it appears to us that the petitioner has not obtained the requisite educational qualification but it was submitted before us by Mrs. Das that there were very many persons serving as Extra Departmental Delivery Agents who had not obtained the requisite qualification and were far less qualified than the petitioner, yet they have been retained in service. Just because in the case of some people the Department has committed some illegalities, we do not feel inclined to allow such illegality to go on especially in a matter which has come to our notice. However the present case stands on a different footing. The petitioner has served the Department from the year 1982 to the year 1987. Before appointment when the papers were scrutinised by the concerned authority it should have attracted their attention. The competent authority failed

N.H.C
15

devote its attention and it is unjustifiable to terminate services of a particular person against whom there is no adverse report long after five years which cannot but be kept in view. The very same view has been taken by the Calcutta Bench in a case reported in A.T.R. 1987(2) C.A.T. 587 (Raipada Biswas v. Union of India and others). In the said case the petitioner Raipada Biswas had been appointed as an Extra Departmental Branch Post Master of a particular post office and two years after his appointment it was found that he did not belong to the post village. Therefore, his services were terminated under Rule 6 of the P & T E.D.A. (Conduct and Service) Rules, 1964. The Hon'ble Judges in the said case observed as follows :-

" In addition we get Annexure-B which also shows that knowing it full well that the applicant was a resident of village Raipur within Post Office Bhairabchandrapur his selection to the post of Extra- departmental Branch Post Master of Bhairabchandrapur Branch Post Office had been approved by the Superintendent of Post Offices, Nadia South Division. After that the applicant joined his post on 7.8.1985 and was allowed to work upto 24.4.1987 when suddenly his service was terminated. It is not understandable to us as to why the fact that the applicant was a non-resident of the village where the post office is located could escape the notice of the appointing authority. After allowing him to work for about 2 years sudden detection of that matter does not justify the termination of his service as has been done in this case. "

16

We fully agree with this view taken by the Calcutta Bench and therefore we would say that it was not justified on the part of the appropriate authority to terminate the services of the petitioner after he worked for five years. Hence the order of cancellation of the appointment of the petitioner contained in Annexure-2 is hereby quashed and it is directed that the petitioner be reinstated into his former post within one month from the date of receipt of a copy of this judgment.

5.

Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

B.R. Patel
30.3.88
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN,

I agree.

B.R. Patel
30.3.88
Vice Chairman



Central Administrative Tribunal,
Cuttack Bench,
March 30, 1988/Roy, SPA.