



CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 406 of 1990

Date of Decision: 18.1.1993

Gagan Chandra Dash Applicant

Versus

Union of India & Others Respondents

For the applicant

Mr. D. R. Patnaik
S. K. Dash
P. R. Panda,
Advocates

For the respondents

Mr. Aswini Kumar Mishra,
Standing Counsel
(Central Government)

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THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

THE HONOURABLE MR. S. R. ADIGE, MEMBER (ADMINISTRATIVE)

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

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JUDGMENT

MR .K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act,1985, the petitioner prays for a declaration that the petitioner is a permanent employee as Extra Departmental Mail Carrier in Panasudha Post Office and it is further more prayed that the stringent terms of of appointment contained in Annexure-1 enabling the authorities to unceremoniously remove any postal employee from the services under Rule-6 be declared void and unconstitutional.

2. Shortly stated the case of the petitioner is that he was temporarily appointed as Extra Departmental Mail Carrier in Panasudha Post Office. After he worked for some time, his services was dispensed with and one Shri Sanatan Dash was appointed. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the petitioner's services was dispensed with under Rule-6 because according to circulars issued, Night Watchman posts were abolished and those Night Watchmen had to be adjusted against some other post office and therefore services of the petitioner was dispensed with and Shri Sanatana Dash was appointed. No illegality having been committed, the impugned order should be sustained.

4. We have Mr.S.K.Dash, learned counsel for the petitioner and Mr.Aswini Kumar Mishra, learned Standing Counsel.

5. At the outset we must say that the so called stringent terms contained in order of appointment should not be quashed, because the authority has the right to terminate the services of the petitioner whenever it is

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found that his work is not satisfactory and this is why Rule-6 makes such provision. We cannot hold it to be unconstitutional. Hence prayer of the petitioner on this account stands dismissed. As regards regularisation of the services of the petitioner in the post of E.D.M.C., we are unable to accede to the request of Mr. Dash to regularise the services of the petitioner. Concerned authority is empowered to regularise the services of the petitioner provided that he is found to be suitable. We cannot step into shoes of the executive authority. Therefore prayer of the petitioner on this account is also rejected.

6. We cannot but express our displeasure in giving appointment to Shri Sanatan Dash, while the present petitioner was functioning as E.D.M.C. True, it is that he was temporarily appointed, but **that** is mentioned in the ~~form~~. Even **temporary** appointees are entitled to the **protection** of the law. No person can be permitted to drive out a **temporary** appointee according to whims and enthusiasm. In such circumstances ^{we} ~~quashing~~ the appointment of Shri Sanatan Dash, we would direct the Superintendent of Post Offices to initiate fresh selection process for the post of E.D.M.C. in panasudha Post Office and in case Shri Sanatan Dash and the present petitioner Shri Gagan Chandra **Dash** are applicants, their cases along with the other candidates from the open market or the candidates sponsored by the Employment Exchange should be considered and he, whosoever is found to be suitable should be
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appointed. Thus the application is accordingly disposed of leaving the parties to bear their own cost.

Anjali.
MEMBER (ADMINISTRATIVE)

Laxmi
18/1/93.
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 18th Jan/1993/BK Sahoo

