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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 467 of 1990

Date of Decision ... 27. 09.1991

Subash Chandra Malabikoi Applicant

Union of India & others Respondents

For the applicant M/s.S.B.Nanda,
B.K.Pattnaik &
R.K.Parohit,
Advocates

For the respondents M/s.A.K.Mishra,
Sr.Standing Counsel (CAT)

C O R A M

HON'BLE MR.K.P.ACHARYA, VICE-CHAIRMAN

AND

HON'BLE MR.I.P.GUPTA, MEMBER (ADMINISTRATIVE)

1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. Wh 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 that the order contained in Annexure-3 terminating the service of the petitioner be quashed and the petitioner has also claimed another relief viz. for regularisation of his service.

2. Shortly stated, the case of the petitioner is that he was appointed as an EDBPM of Bijapur Post Office within the district of Koraput. Shortly after it came to the notice of the Competent Authority that the petitioner had made ~~himself~~^{his} representation of facts that he belongs to the post village, though according to the authority it was not so and therefore the services of the petitioner was terminated vide Annexure-3 which is under challenge and sought to be quashed.

3. In their counter the opposite parties maintain that one of the main criterias for appointment to the posts of EDBPM is that the incumbent should belong to the post office village and subsequently it was noticed that the petitioner lags behind in complying with this criteria, the concerned authority rightly terminated the services of the petitioner under Rule-6 which ~~are~~^{should} not ~~be unsettled~~^{be unsettled} ~~unjust laws~~, rather it should be sustained.

4. We have heard Mr.S.B.Nanda, learned Counsel for the petitioner and Mr.A.K.Mishra, learned Sr.Standing Counsel (CAT) at some length. Mr.Nanda urged with

vehemence that ~~after~~ receiving some allegations (if ^{true} through) the authority abruptly terminated the services of the petitioner without complying with the principles of natural justice by issuing a show cause notice to the petitioner and the petitioner could not ~~have~~ availed the opportunity of filing his show cause which would ^{have} ~~be~~ convinced the authority that the allegations if any ^{levelled} against the petitioner are baseless and malafide. From the records we find that no show cause notice was ever issued to the petitioner. We ^{feel} ~~think~~ persuaded to quote a judgment of the Hon'ble Supreme Court reported in 1987(4) Supreme Court cases 431 (K.I. Shephard and others vrs. Union of India & others). In the said case Hon'ble Mr. Justice Ranganath Mishra (as my ^{the chief} lord of justice) was pleased to observe as follows :

"On the basis of these authorities it must be held that even when a state agency acts administratively, rules of natural justice would apply. As stated, natural justice generally requires that persons liable to be directly affected by proposed administrative acts, decision of the proceeding to be given adequate notice of what is proposed show cause that they may be in a position :

- (a) to make representations of their behalf;
- (b) or to appear at a hearing or ~~enquiring~~ if one has held; and
- (c) effectively to prepare their own cause and to answer the cause if any) they have to meet"

5. In view of the above quoted dictum laid down by Their Lordships, we are of the opinion that principles of natural justice has been cleanly violated in this case as no notice ^{be was} given to the petitioner for the action which

isproposed to be taken against the petitioner. Therefore applying the principles laid down in the case of K.I. Shephard & others vrs. Union of India & others to the facts of the present case, we would quash the impugned order of termination contained in Annexure-3 and ~~will~~^{will} direct the concerned authority viz.the Sr.Superintendent of Post Offices, Koraput Division to give notice to the petitioner for the action proposed to be taken against him and in case any show cause is filed by the petitioner that should be duly considered by OP No.3 and an order be passed according to law. Thus the application is disposed of leaving the parties to bear their respective costs.

J. L. Gupta
MEMBER (ADMINISTRATIVE) 27/9
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kg as SJB
27.9.91
VICE-CHAIRMAN
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Central Administrative Tribunal
Cuttack Bench, Cuttack
September, 27, 1991/ B.K. Sahoo