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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A.No. 228 OF 1993

Date of decision: 24th May, 1993

Shri Hrushikesh Rath ... Applicant

-Versus-

Union of India and others ... Respondents

For the Applicant ... M/s. K.P. Mishra,  
Alok Das,  
S.K. Dash,  
S. Mallik,  
N. Sarkar,  
Advocates.

For the Respondents ... Mr. Akshya Kumar Misra,  
Additional Standing Counsel  
(Central).

...

CORAM:

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN  
&  
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMIN)

...

1. Whether reporters of local papers may be allowed 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.

...

J U D G M E N T

K.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to declare that the impugned order contained in Annexure 4 is bad and illegal and therefore, the same should be cancelled/quashed. Further prayer of the petitioner is ~~to direct~~ the Opposite Parties to allow the Petitioner to continue in the Post of Development Officer (PLI) for a further period of two years.

2. Shortly stated, the case of the petitioner is that the petitioner had been appointed as Development Officer (PLI) and such appointment was extended for a further period of two years after he had completed three years in the said post. On the expiry of 23rd day (after completion of three years tenure and after being appointed for two years), the extension order was cancelled by the Director, Postal Services which is illegal and without jurisdiction and is liable to be quashed.

3. This ~~case came~~ came up before the learned Single Judge on 4th May, 1993, for admission and interim orders. The learned Single Judge had called upon the Opposite Parties to convince the Bench as to who was the competent authority to issue the ~~order~~ order of appointment and who was the competent

authority to cancel the order of appointment. The Director, Postal Services was called upon to file a statement. The Director has filed a statement.

4, We have heard Mr. K. P. Mishra learned counsel appearing for the petitioner and Mr. Akshya Kumar Mishra learned Additional Standing Counsel (Central). Mr. K. P. Mishra learned Counsel appearing for the Petitioner vehemently urged before us that from the statement filed by the Director, Postal Services, it appears that some allegations have been levelled against the petitioner. and without calling upon the petitioner to convince the authorities that the allegations were baseless, the Director, Postal Services rushed to cancel the extension order which was passed by the Chief Post Master General, Orissa Circle, Bhubaneswar and therefore, the order passed by the Director, Postal Services is illegal and without jurisdiction.

On the other hand, Mr. Akshya Kumar Misra, learned Additional Standing Counsel (Central) for the Opposite Parties contended that the Director, Postal Services is the competent authority for making appointment of any incumbent to this post and naturally the Director of Postal Services is the competent authority to cancel the order of appointment or extension of tenure of service. According to Mr. Akshya Kumar Misra learned Additional Standing Counsel (Central) no

illegality having been committed by the Director, Postal Services, the order contained in Annexure-4 should be sustained and should not be quashed.

5. We have given our anxious consideration to the arguments advanced at Bar. We have also perused the statement filed by the Director, Postal Services Mr. J. Panda. We do not take any notice of the allegations levelled against the petitioner in the said statement. From Annexure-1 dated 19th July, 1990, we find that it is mentioned, therein, that the Petitioner Shri H.K. Rath, Office Assistant was appointed as Development Officer, Postal Life Insurance vide Memo No. ST/20-23/84 dated 13.7.1990 in pursuant to the order of the Chief Postmaster General and in Annexure 1 it is further mentioned that Shri Rath will be relieved on office arrangement to join his new post. Mr. K.P. Mishra learned counsel appearing for the petitioner invited our attention to Memo No. ST/20-23/84 dated 6th April, 1993. Therein it is specifically stated that the Chief Postmaster General, Orissa Circle, Bhubaneswar is pleased to grant extension of tenure to the following officials in the post of Development Officers (PLI) for a period of two years and the Petitioner Shri H.K. Rath is one of those incumbents. From the contents of the aforesaid documents, we have, absolutely, no doubt, in our mind to hold that the initial appointment and extension of tenure of services of the petitioner

was ordered by the Chief Postmaster General. Admittedly, the Director, Postal Services had cancelled the extension of services of the Petitioner. In the statement, filed by the Director of Postal Services, there is no indication as to whether the <sup>cancellation of</sup> ~~the~~ extension order was passed by the Chief Postmaster General. In ~~case~~ the cancellation of the extension order was passed by the Chief Postmaster General, then this order passed by us becomes infructuous/ ineffective. In case orders have not been obtained from the Chief Postmaster General in this regard, we would direct ~~that~~ resubmission of file to the Chief Postmaster General who would pass necessary orders according to law.

6. Mr. K. P. Mishra learned counsel appearing for the petitioner vehemently submitted before us that before any order is passed by the Chief Postmaster General, the petitioner should be given a personal hearing. We have no objection, if the Chief Postmaster General gives a personal hearing to the petitioner but this is completely left to the discretion of the Chief Post Master General,

7. The stay order passed on 4th May, 1993 stands automatically vacated. After receipt of a copy of this judgment, we have no objection, if the Chief Postmaster General allow<sup>s</sup> the petitioner

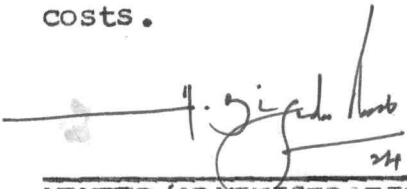
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to continue in the present post.

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

  
24 MAY 93.  
MEMBER (ADMINISTRATIVE)

  
24.5.93  
VICE CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench, Cuttack/K.Mohanty/  
24.5.93