

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 631 OF 1994
Cuttack this the 28th day of August/2000

Bhuban Mohan Mangali ... Applicant(s)

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Applicant(s)

-VERSUS-

Union of India & Others ... Respondent(s)

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Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? N^o .
2. Whether it be circulated to all the Benches of the N^o - Central Administrative Tribunal or not ?

SOMNATH SOM
VICE-CHAIRMAN

(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.631 OF 1994
Cuttack this the 28th day of August/2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

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Bhuban Mohan Mangali
Son of Ramakrishna Mangali
of Village Bhansali,
PS/Tahasil - Kotpad
District - Koraput

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Applicant

By the Advocates

M/s.R.N.Naik
A.Deo,
B.S.Tripathy
P.Panda
D.K.Sahu

-VERSUS-

1. Union of India represented by
it's Secretary, Department of Posts
Dak Bhawan, New Delhi
2. Chief Post Master General, Orissa Circle
At/PO: Bhubaneswar, Dist - Khurda
3. Director of Postal Services, Orissa
At/PO: Bhubaneswar, Dist - Khurda
4. Senior Superintendent of Post Offices,
Koraput Division, Jeypore (K)
PO: Jeypore, Dist - Koraput

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Respondents

By the Advocates

Mr. A.K. Bose
Sr.Standing Counsel
(Central)

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O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): In this Application praying for quashing order dated 13.11.1990 (Annexure-3) of the Senior Superintendent of Post Offices, Jeypore (Res.4), terminating the service of the applicant as Extra Departmental Branch Post Master, Bhansali Branch Office under Rule - 6 of P & T E.D. Agents (Conduct & Service) Rules, 1964 (in short Rules), the case of the applicant is that he was selected and appointed as E.D.B.P.M., Bhansali Branch Office vide Respondent No.4's letter dated 12.9.1990. After the applicant functioned for some time in that post, this order under Annexure-3 was suddenly issued and his service was terminated. Applicant thereafter preferred appeal before the Director of Postal Services (Res. 3), who by his order dated 26.1.1994 rejected the representation on the ground that applicant did not belong to post village and did not have landed property to prove his income (Annexure-4).

According to ^{the} applicant, even the order passed by the appellate authority is also illegal and arbitrary. At any rate, without calling for any explanation or show cause his services could not have been terminated by Res.4, as he was duly selected against ^{the} regular vacancy after following the proper selection procedure.

2. The stand of the Respondents (Department) is that the order of termination passed by Respondent No.4 and the order of rejection passed by Respondent No.3 are strictly in accordance with the provisions of Rule for E.D. Agents. After the selection and consequent upon receipt of a complaint from the villagers of Bhansali village an on the spot inquiry was made on the allegation, and it was ascertained that the applicant was not a permanent resident of the post village, but he was

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 residing at Deoli temporarily which is a hamlet of Bhansali village. The income certificate furnished by him also proved to be false and he had no landed property in his name at Bhansali village or anywhere else. On these grounds the Department pray for dismissal of the Original Application.

3. We have heard Shri A.Deo, learned counsel for the applicant and Shri A.K.Bose, learned Senior Standing Counsel appearing for the Respondents. Also perused the records.

4. Along with the application the applicant enclosed xerox copies of income certificate (Annexure-1) and nativity certificate (Annexure-2) issued by Tahasildar Kotpad on 19.6.1990 and 30.5.1990 respectively. However, for disposal of this Original Application it is not necessary for us to determine whether these two documents are false or not. What is necessary to determine is whether the applicant, as contended by him, is entitled to an opportunity to show cause and/or to submit any explanation from the authorities before issue of order of termination under Annexure-3. If he is entitled under law to such an opportunity and such an opportunity having not been extended to the applicant, the order of termination under Annexure-3 cannot be legally sustained and consequently rejection order under Annexure-4 will not have the ^{sanctity} recourse of law.

5. Rule-6 of the Rules has been subject matter of interpretation by various C.A.T. Benches, including Full Bench of Allahabad C.A.T. in Tilakdhari Yadav's case reported in (1997) 36 A.T.C. 539, which decision was followed by this Bench in O.A. 1/99 disposed of on 12.11.1999. The consistent view taken is termination of service of an E.D.Agent, other than unsatis-

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factory service under Rule-6, without giving him opportunity to show cause violates natural justice. No contrary view of anyother higher judicial forum with reference to this rule has been cited.

In view of this legal position the termination order under Annexure-3 violating the principles of natural justice cannot be legally sustained and consequently the rejection order under Annexure-4, passed by the appellate authority cannot but be ignored.

In the result, we have no hesitation to quash the termination order dated 13.10.1990 passed by the Senior Suptd. of Post Offices(Res.4) and the rejection order dated 26.1.1994 passed by the appellate authority, i.e. Director of Postal Services(Res.4), and accordingly they are quashed. Respondents are directed to reinstate the applicant. Application is allowed, but without any order as to costs.

Somnath Somi
(SOMNATH SOMI)
VICE-CHAIRMAN

1.28.8.2004
(G. NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//