

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Or. m/s 4 Mem. bennFor Venkay Kalyan
order 27.11.2000Result to be sentFinal16.12WFurther orderreg: stayOrder 23/11BenchS. V. M.Order dated 27.11.2000

Heard Shri Ashok Mohanty, the learned counsel for the petitioner and Shri A.K.Bose, the learned Sr. Standing Counsel appearing for the Respondents and also perused the records.

The petitioner in this Original Application has prayed for quashing the order dated 31.7.2000 vide Annexure-A/2 terminating his service as Extra Departmental Branch Post Master, Solada B.O. on expiry of a period of one month. This order has been stayed vide order dated 30.8.2000 of this Tribunal.

Respondents have filed their counter opposing the prayer of the applicant and applicant has also filed rejoinder.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that for filling up of the post of E.D.B.P.M., Solada, there was a selection and the applicant was duly selected for the post in question, after satisfactory verification of all his documents including his Income Certificate. This has been mentioned by the Respondents in Page-2 of their counter. It is also the admitted position that the applicant joined the post on 5.4.2000 after undergoing the training. Thereafter in letter dated 31.7.2000 his services have been terminated. The applicant has mentioned in Para-5(i) of the Original Application that before terminating his services a no show cause notice was given to him and therefore, this is against the law as laid down by the Hon'ble Supreme Court in K.I. Sepherd's case. Respondents have stated that Income Certificate which was taken into consideration at the time of selection and appointment of the applicant was not correct and therefore, the same was cancelled by the Tahasildar and this is why applicant's services were terminated.

For the present purpose it is not necessary to go into the question as to whether the Income Certificate as produced by the applicant and which was taken into consideration was correct or not. Law is well settled that for terminating the services of an E.D. Agent under Rule-6 of the E.D.A (Conduct & Servi-

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Free copy of
the order
H-27-11-2K given
to the both
counsel.

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Rules, 1964, a show cause notice has to be issued. This has been laid down by the Full Bench of the Tribunal in Tilakdhari Yadav's case reported in (1997) 36 A.T.Cases 539 (Allahabad F.B.). In this case admittedly before issuing the order at Annexure -2 no show cause notice was given to the applicant. In view of this going by the law laid down by the Full Bench of C.A.T. order at Annexure-2 is not sustainable and it is accordingly quashed. The applicant, will therefore, be entitled to continue in his job. This will however put no bar on the respondents to take such action against the applicant, which they are entitled to strictly in accordance with the rules.

O.A. is allowed as per observations made above, but without any order as to costs.

Venkateshwaran
VICE-CHAIRMAN
27.11.2000

MEMBER (JUDICIAL)