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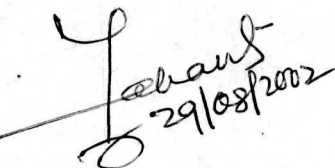
CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.


ORIGINAL APPLICATION NO. 244 OF 2001

Cuttack, this the <sup>29th</sup> day of August, 2002

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not?
2. Whether it be circulated to all the Benches of the  
Central Administrative Tribunal or not?

  
(M.R. MOHANTY)  
MEMBER(JUDL.)

  
(V. SRIKANTAN)  
MEMBER(ADMN.)

For Circulation -  
28/8

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 244 OF 2001  
Cuttack, this the 29th day of August, 2002

**CORAM:**

**HON'BLE SHRI V.SRIKANTAN, MEMBER(ADMN.)**

**AND**

**HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDL.)**

.....

Puspalata Sahu, d/o Dasarath Sahu, At/PO Kalikaprasad, Via-  
Mandhatapur, PS/Dist. Nayagarh.....Applicant.

Vrs.

1. Union of India, represented through the Chief Post  
Master General, Orissa, Bhubaneswar,  
Dist.Khurda.
2. Senior Superintendent of Post Offices, Puri  
Division, Dist.Puri.
3. Sub-Divisional Inspector (Postal)  
Nayagarh East Sub-Division, Nayagarh.  
.....Respondents.

Advocates for the applicant – M/s Ashok Mohanty,  
T.Rath, J.Sahu, H.K.Tripathy,  
M.K.Rout, J.P.Patra.

Advocate for respondents – Mr.S.B.Jena, ACGSC

.....

**ORDER**

**V.SRIKANTAN, MEMBER(ADMN.)**

Heard Shri Ashok Mohanty, learned counsel for the  
applicant and Shri S.B.Jena, learned Additional Standing

Counsel, appearing for the respondents, and perused the materials on record.

2. In this Original Application, the applicant has challenged the notice of termination of service, dated 30.5.2001 (Annexure A/5), which was being issued in pursuance of Rule 6(a)(b) of the E.D.Agents (Conduct & Service) Rules, 1964.

3. The applicant had submitted an application in response to a notification, dated 23.2.2000 for the post of EDBPM, Kalikaprasad B.O., and the applicant having secured the highest marks, was selected and appointed vide letter dated 22.2.2001(Annexure A/2), and after undergoing training, etc., the applicant was working as EDBPM but was served with a notice of termination vide letter dated 30.5.2001. Being aggrieved by this notice of termination of services, the applicant has filed this Original Application seeking the quashing of the termination notice (Annexure A/5) and for appropriate direction to the respondents to reinstate the applicant as EDBPM.

4. The main grounds advanced by the applicant are that no reasons have been <sup>given</sup> in the notice of termination and the applicant has not been given any opportunity of being heard in the matter, before issuing such notice, and principles of natural justice have been violated and that Rule 6, which has been applied, is not applicable since termination in terms of Rule 6 is only possible when the person was not qualified or was ineligible in terms of the Recruitment Rules or had furnished false information or produced false certificate in order to secure the appointment. Further, it is a settled principle of law, which has been upheld by various Benches of this Tribunal, that no authority, excepting the appointing authority, has the power to review the order of appointment and for this reason, the termination notice is liable to be quashed.

4. The respondents in their reply, while not disputing the factual statements, have stated that after the applicant was appointed, the case of the applicant was reviewed by respondent no.2, who opined that the selection was irregular and thereafter directed that the appointment of the applicant should be terminated after observing formalities and in

accordance with those orders, the notice of termination of services was issued to the applicant on 30.5.2001 under Rule 6 of the EDA (Conduct & Service) Rules, 1964.

5. The law on the subject, whether in such situation Rule 6 of the EDA (Conduct & Service) Rules, 1964, is applicable or not, has been well settled, as also the legal position as to whether the reviewing authority can review the appointment made by the appointing authority and direct the appointing authority to cancel the appointment order. Various Benches, including Principal Bench, have held that in such a situation, the principles of natural justice require that a showcause notice should be issued and the representation received thereafter from the applicant should be considered before the termination order is passed. Similarly, it has been held that it would not be proper for the appointing authority to issue a termination order on the directive of the reviewing authority, and the appointing authority is required to apply its mind, unfettered by any directions from the higher authorities. Some of these issues were considered in O.A.Nos.280, 281 and 282 of 1999, in which orders were passed by this Tribunal on

15.3.2000, wherein it was held that the respondents are at liberty to issue notice to give opportunity to the applicant to show cause, if any, against the proposed orders of termination and after considering the showcause, if any, can take appropriate decision in the matter as deemed fit.

6. However, the appointment of the applicant in this O.A. has been separately challenged by one of the applicants, who was not selected, in O.A.No. 181 of 2001, wherein he had sought for quashing of the appointment of the applicant. In that O.A., for the reasons mentioned therein, this Tribunal has quashed the appointment of Pusalata Sahoo, the applicant in this O.A. Since the original appointment of the applicant in this O.A. has been quashed by this Tribunal, the notice of termination, dated 30.5.2001 (Annexure A/5) no longer subsists.

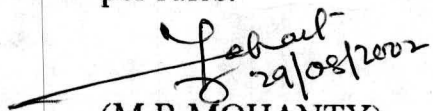
7. For the above reasons, we hold that this Original Application has become infructuous as the termination notice (Annexure A/5) no longer subsists. This Original Application is accordingly dismissed. No costs. The stay order granted by this




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Tribunal against the notice of termination of services is also vacated. It is open to the respondents to take further action as per rules.

  
(M.R. MOHANTY)  
MEMBER(JUDICIAL)

  
(V. SRIKANTAN)  
MEMBER(ADMN.)

AN/PS