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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 99 of 2002
Cuttack, this the 08th day of July, 2004.

Laxmikanta Singh.

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Applicant.

-Versus-

Union of India & Ors.

....

Respondents.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not? *Yes*
2. whether it be circulated to all the Benches of the Tribunal or not? *yes*

[Signature]
(B.N. SOM)
Vice-Chairman

[Signature]
(Manoranjan Mohanty)
Member (Judicial)

[Signature]
08/07/04

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.99/2002 .

Present: THE HON'BLE MR. B. N. SOM, VICE-CHAIRMAN
THE HON'BLE MR. M. R. MOHANTY, MEMBER (J).

Laxmikanta Singh. Applicant.

-Vrs.-

UOI & Others. Respondents.

For the Applicant : Mr; D. P. Dhalsamant,
Counsel.

For the Respondents: Mr. A. K. Bose, SSC
&
Mr. P. K. Khuntia,
Counsel.

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Date of decision: 08th / July / 2004
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O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Applicant (who was engaged as a Mail Carrier cum
Gramin Dak Sevak/Extra Departmental Mail carrier of
Langaleswar Sub postoffice under Jaleswar Head Post
Office of Balasore Revenue District of Orissa with
effect from 04.06.2001) was served with a notice
under Annexure-4 dated 28.2.2002 to face termination
with immediate effect ; contents of which reads as
follows:—

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"In pursuance of the provisd to Rule-8(b) and the Note below Rule -8(b) of P&T EDAs(Conduct and Employment) Rules, 2001, I Sri Radha Krushna Sahoo, SDI(P), Jaleswar (West) (name and designation), hereby terminate (forthwith) the services of Shri Laxmikanta Singh, GDSMC, Nagleswar SO (name and designation) and direct that he/she shall be entitled to claim a sum equivalent to the amount of his basic allowance plus dearness allowance for the period of notice at the same rates at which he/she was drawing them immediately before the termination of his/her service, or, as the case may be, for the period by which such notice falls short of one month. The due amount of basic allowance plus dearness allowance is being remitted in lieu of thenotice of one month or for the period by which such notice falls short of one month".

2. Immediately, on receipt of the above-said order of termination, the Applicant files this Original Application under section 19 of the Administrative Tribunals Act, 1985 challenging the said order of termination.

3. By filing a counter, the Departmental Respondents have disclosed that the post of GDSMC of Nagaleswar Sub Post Office having fallen vacant (due to promotion of the incumbent, as Postman) the Inspector of Jaleswar West Postal Sub Division took step to recruit another person to man the post of Mail carrier for the said Sub post office by calling for names from Employment Exchange and by open invitation of applications. Upon selection, the Applicant (who claimed to be a candidate belonging to ST community and produced supporting caste certificate from the Tahasildar of Jaleswar Revenue Tahasil) was engaged as the Mail Carrier of the said

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Nagaleswar Sub Post Office. It has been disclosed by
the Respondents-Department that ^{on} verification of
certain complaints/allegations it was found
that (a) the Applicant had submitted a bogus/forged
caste certificate; (b) a forged Character Certificate;
letter containing
and (c) a forged willingness of the prospective land
lord to rent out accommodation in order to secure
employment in question. Relevant portion of the
counter filed by the Respondents-Department reads
as follows:-

"(i) Shri Laxmikanta Singh (Applicant) has submitted a bogus Caste certificate in his name and secured the appointment in the post reserved for ST community. A copy of the said Caste Certificate is enclosed and marked as Annexure-R/1.

(ii) The character certificate issued by Medical Officer PHC (New) Singla dated 7.3.01 in favour of the Applicant and submitted by the Applicant is found to be forged on enquiry. A copy of the said character certificate is annexed to the counter as Annexure-R/2. The Medical Officer PHC Singla denied to have issued the Certificate vide his letter dated 28.11.2001 (Annexure-R/3).

(iii) The Applicant belongs to village Patharkhola, PO-Asabandha, PS-Hatigarh. Hence, as per ED Recruitment Rules and condition in notification, he has to take up residence in a village under Nagaleswar SO (Serving office). Accordingly, the applicant submitted a willingness from one Gangaram Singh, PO-Balikothi, PS-Baliapal who apparently agreed to provide residential accommodation to the applicant on his appointment (Annexure-R-4). But on enquiry made into the matter revealed that (a) there is no person named Gangaram Singh, Vill./PO; Balikothi, Via-Mandhata Bazar (b) Balikothi does not come under delivery jurisdiction of Nagaleswar SO but comes under Mandhatabazar BO.

Therefore the Applicant was found to have submitted 3 above fake/false certificates and secured appointment in post of GDSMC (EDMC) Nagaleswar SO, on the basis of 3 false certificates.

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Accordingly, the service of the Applicant was ordered to be terminated vide Rule-6 of EDA conduct and service Rule, 1964 (New Rule 8 of GDS Conduct and Employment Rules, 2001), Annexure-4 of the O.A."

4. It has been disclosed in the counter that because it was found that the Applicant secured the employment on submission of three false certificates, his services were ordered to be terminated in exercise of the powers under Rule-6 of EDAs (conduct and Service) Rules, 1964 / Rule-8 of GDS (Conduct and Employment) Rules, 2001.
5. Heard Mr. D. P. Dhalsamant, learned Counsel appearing for the Applicant and Mr. Anup K. Bose, learned Senior Standing Counsel appearing for the Respondents-Department and Mr. P. K. Khuntia, learned Counsel appearing for the intervenor.
6. Rule-6 of the EDAs (Conduct and Service) Rules, 1964 reads as follows:-

"6. Termination of Services.

(a) The services of an employee who has not already rendered more than three years' continuous service from the date of his appointment shall be liable to termination at any time by a notice in writing given either by the employee to the appointing authority or by the appointing authority to the employee;

(b) the period of such notice shall be one month.

Provided that the service of any such employee may be terminated forthwith and on such termination, the employee shall be entitled to claim a sum equivalent to the amount of his basic allowance plus Dearness Allowance for the period of the notice at the same

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rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month".

We have also gone through the Rule-8 of the New GDS (Conduct and Employment) Rules, 2001 which is the replica of Rule-6, quoted above.

7. On a reading of these Rules of 1964 and that of 2001, it is clear that services of any employee who has not rendered more than three years of continuous service can be terminated, at any time by a notice of one month to be given by either sides. However, the termination can be made forth without such one month notice; but in that event, an employee should be entitled to salary and other emoluments as contemplated therein (clause-6 of rule 6). Thus, one month notice before termination is contemplated under sub rule 2 of Rule-6. The Authorities having acted in terms of the proviso to rules, there is no requirement to issue a notice of one month; because salary and other emoluments for one month was tendered in the termination order itself as can be seen from the impugned order extracted in para-1 above.

8. Appointment/engagement of the Applicant having been procured on production of forged documents as has been found by the competent authorities, no notice was given to him to have his say in the matter. The Respondents have produced those materials alongwith their counter

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branding them to be forged. Applicant, though had the opportunity, did not file any rejoinder to explain his conduct/the allegations levelled against him; apparently because he has nothing to say. When the Authorities found that the appointment was procured by the Applicant by producing forged documents, such a selection was rightly annulled and for annulling such selection/ appointment, show-cause notice was not required since it is not the case of the Applicant that he did not produce those forged documents. It may be noted here that in course of hearing of the present proceeding, the Applicant had enough opportunity to have his say on the documents (found to be forged by the Departmental Authorities) and, therefore, the action of the Respondents (in terminating the services of the Applicant in exercise of the powers un Rule-6 of the relevant service Rules) cannot be interfered with; because the Applicant had served the Department for less than three years and has whispered nothing in defence even during the hearing of the present case in this Tribunal.

9. In the aforesaid premises, there being nothing available to interfere with the impugned order of termination, this O.A. is dismissed being devoid of any merit. No costs.

(Signature)
(B. N. SOM)
VICE-CHAIRMAN

(Signature)
(M. R. MOHANTY)
MEMBER (JUDICIAL)