

(71)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH

Date of Order 1.5.1995.

O.A. No. 157/95.

Jagdish Kumar Sharma

.....Applicant.

Vs.

Union of India & others.

.....Respondents.

CORAM: HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN,  
HON'BLE MS. USHA SEN, ADMINISTRATIVE MEMBER.

For the applicant - Mr. Manoj Bhandari, advocate.

O R D E R (ORAL)

(Hon'ble Mr. Copal Krishna, Vice Chairman)

...

Applicant, Jagdish Kumar Sharma, in this Application under Section 19 of the Administrative Tribunals Act, 1985, has assailed the notice of termination at Annexure A/1, dated 31.3.95, by which his services as an Extra-Departmental Mail Carrier (for short E.D.M.C.) were to stand terminated with effect from the date of expiry of a period of one month from the date of service of the notice.

2. We have heard the learned counsel for the applicant.

3. The learned counsel for the applicant has contended that there was no allegation of any misconduct against the applicant. He, however, stated during the course of arguments that since the services of the applicant could not be terminated without complying with the provisions contained in Article 311 of the Constitution Rule 6(a) of the Posts and Telegraphs Extra-Departmental Agents (Conduct and Service) Rules, 1964 (for short the Rules) under which the services of the applicant are sought to be terminated is violative of Article 311 of the

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Constitution inasmuch as it provides that the services of an employee can be terminated without any notice and without assigning any reason therefor. The vires of the said rule are challenged on the ground of arbitrariness as being unconscionable. Article 311 of the Constitution has no application to the present case because the present case is neither a case of dismissal nor of removal from service nor it is a case of reduction in rank. We find no arbitrariness in the provisions contained in Rule 6(a) of the Rules. It is an ordinary case of contract being terminated under one of its clauses. However, the fact remains that the applicant has rendered service as an E.D.M.C. in the Post Office at Barmer and instead of pressing this Application on merits, the learned counsel for the applicant intends to make a representation in regard to his grievance to the concerned authority and he wants the same to be decided as per rules keeping in view the length of service rendered by the applicant in the department. The applicant having not availed of the remedy of representation/review, we find that the present Application is premature and it is liable to be dismissed as such at the stage of admission. However, if the applicant makes a representation to the concerned authority in regard to his grievance against termination, he is free to do so within a period of 15 days from the date of this order and if he makes a representation or files a Review Petition, the same shall be decided by the respondents within one month of the receipt thereof in accordance with rules through a speaking order. If the applicant is aggrieved by any decision

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taken on his representation/Review Petition, he shall be at liberty to file a fresh O.A. after exhausting all the remedies available to him.

With these observations, this Application is dismissed as being premature.

Usha Sen  
( USHA SEN )  
ADMINISTRATIVE MEMBER

Gopakrishna  
( GOPAL KRISHNA )  
VICE CHAIRMAN

Part II and III destroyed  
in my presence on 21/12/200  
under the direction of  
Sgt. Major J. G. P. R.  
21/12/1972  
Security Officer (Record)

Received copy on  
3/5/95  
J. G. P. R.