

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH: JODHPUR.

O.A. No.250/97

Date of Order: 4.9.1998

Gudar Das s/o Shri Ram Chandra, r/o V.P.O. Deoriya, Tehsil: Jaitaran, District: Pali Marwar, Ex-EDMC/EDDA at Deoriya Sub Post Office, Distt: Pali.

... Applicant

VERSUS

1. The Union of India through its Secretary, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. The Superintendent, Post Offices, Indian Postal Department, Pali.
3. The Inspector, Post Offices, Indian Postal Department, Sub-Division, Jaitaran, District: Pali Marwar.

... Respondents

Mr. S.N. Trivedi, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

Applicant, Gudar Das, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for:

(A) That the impugned order dated 19.7.97 (Annx. A/1) passed by the respondent No.3 may be quashed and set aside and accordingly, the applicant may deem to be continued in service as EDMC/EDDA with all consequential benefits.

Gopal Singh

(B) That in the alternative, the applicant may be given preferential right while filling the existing vacant post of EDMC/EDDA at Deoriya Sub Post Office in Tehsil Jaitara, District Pali or the same existing vacant post may not be filled up without considering candidature of the applicant.

2. This Tribunal vide its interim order dated 26.8.1997 had restrained the respondents department from filling up the post <sup>vacant</sup> that had fallen <sup>due to removal</sup> from service of the applicant.

3. Applicant's case is that vide respondents order dated 9.4.1997 (Annex. A/3), the applicant was appointed as EDMC/EDDA w.e.f. 27.12.1996. That after a lapse of about eight months the services of the applicant were terminated vide respondents letter dated 19.7.1997 (Annex. A/1). The contention of the applicant is that this order of removal from service was without any rhyme and reasons and without giving any show cause notice to the applicant, thus violating the principles of the natural justice.

4. Notices were issued to the respondents and they have filed their reply. The respondents have contended that as a result of a review by the superior authority, it came to notice that the appointment of the applicant was made against the rules and accordingly the services were terminated in terms of Rule 6 (b) of the Post and Telegraphs Extra-Departmental Agents (Conduct and Service) Rules, 1964. The applicant was also paid compensation in lieu of the notice period as provided under the rules.

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5. We have heard the learned counsel for the parties and perused the records of the case carefully.

6. The learned counsel for the applicant has mainly contended that once the applicant has been appointed he could not have been dismissed without affording him an opportunity to defend his case. The services of the applicant has been terminated without giving him any show cause notice and this violates the principal of the natural justice. On the other hand the learned counsel for the respondents have brought to our notice this Tribunal order dated 7.10.1996 in O.A. No.241/96 and O.A. No.242/96. While disposing of above applications, this Tribunal has ordered as under:

"6. On a careful consideration of the facts and circumstances of these cases, we have come to the conclusion that the impugned orders terminating the services of the applicants were based on administrative grounds and as such they come within the purview of Rule-6 of the Rules. Reliance is placed on (1987) 3 ATC 54, Prahallad Charan Swain Vs. Union of India & Others. We find that our stand finds support from the decisions of the Hon'ble Supreme Court in the case of P.K.Mukherjee vs. State of Bihar & Others, 1969 SLR Vol. 3 470. In this case, the Apex Court declined to provide any relief by ordering reinstatement of the appellant. The reason was that no writ of mandamus can be issued when the appointment is a matter of contract. The impugned orders of termination-simplicitor under Rule - 6 of the Rules cannot be rendered invalid merely on the ground that no reasons were mentioned therein.

7. We, therefore, find no merits in these Original Applications. These are dismissed with no order as to costs."

Applicants' case in O.A. Nos.241/96 and 242/96 were also of appointment as E.D. Mailman consequent upon their sponsorship by the Employment Exchange and these appointments were reviewed by the next higher authority and it was found that the selection had been made by ignoring the relevant instructions and accordingly their services were terminated. The case in hand is dismissible.

exactly similar to the case of the applicants in O.A. Nos. 241/96 and 242/96.

7. Rule 6 of the Post and Telegraphs Extra-Departmental Agents (Conduct and Service) Rules, 1964 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 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."

8. In view of the rules position explained above and the cases decided earlier by this Tribunal as discussed above, we do not find any merit in this application and the same deserves to be dismissed and is hereby dismissed with no order as to costs.

Gopal Singh  
(Gopal Singh)  
Administrative Member

A.K. Misra  
(A.K. Misra)  
Judicial Member

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my  
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Recopy of  
Part II and III  
V. K. Mathur  
3/6/98

Part II and III destroyed  
in my presence on 4.4.1996  
under the supervision of  
section officer (J) as per  
order dated 26/2/1996

Section officer (Records)