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CENTRAL ADMINISTRATIVE TRIBUNAL JODHPUR BENCH

Original Application No. 186 of 2012.

Jodhpur, this the 03rd July, 2013.

CORAM

HON'BLE MR. JUSTICE K.C. JOSHI, JUDICIAL MEMBER
HON'BLE Ms. MEENAKSHI HOOJA ADMINISTRATIVE MEMBER

Om Prakash Kalwar S/o Shri Gheesa Lal aged 25 years
resident of Shramdeep H-88, R.K. Colony, Bhilwara, Ex.
Postal Assistant, Head Post Office, Bhilwara.

: Applicants
(Through Shri Vijay Mehta Advocate)

Versus

1. Union of India through the Secretary, Ministry of Communication (Department of Post), Sanchar Bhawan, New Delhi.
2. Superintendent of Post Offices, Bhilwara.
3. Director, Postal Services, Southern Region, Rajasthan, Ajmer.
4. Chief Post Master General, Rajasthan Circle, Jaipur.

: Respondents
(Through Smt. Kausar Parveen)

ORDER (ORAL)

PER K.C. JOSHI :

The applicant by way of this O.A. has challenged the legality of the order Annex.A/1 dated 30th May, 2011 by which the services of the applicant were terminated in pursuance of the proviso to Sub Rule 1 of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965.

The short facts of the case as averred by the applicant are that after due selection the applicant was appointed on the post of Postal Assistant on 19.05.2011. His services were abruptly terminated on 30.05.2011 under

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the Temporary Service Rules, 1965. The appointment of the applicant was not covered by those rules because the appointment order does not mention that the appointment is covered by that rules. The applicant submitted that the applicant was appointed as per Department of Posts (Postal Assistant and Sorting Assistants) Recruitment Rules, 2002. The applicant submitted a Review Petition on 26.07.2011. The respondent No. 2 passed the impugned order of termination dated 12.12.2011 informing the applicant that since his appeal is against the order of punishment passed by the respondent No. 2 he should submit appeal to the respondent No. 3, therefore, the applicant preferred an appeal on 20.12.2011 before the appellate authority i.e. respondent No. 3 but the same is pending and in spite of reminders, it has not bee-n decided by the competent authority. The applicant has prayed to quash the order Annex.A/1 dated 30.05.2011 on the ground that the order was passed without any authority under the relevant rules.

2. By way of reply, the respondents denied the allegations averred in the application. It has been further averred that the applicant's selection was subject to the D.B. Civil Writ Petition No. 5636/2007 filed by the Department in the Rajasthan High Court Bench Jaipur and verification of the character and antecedents educational qualification and other documents. The applicant submitted attestation form duly filled in for his character and antecedents. The District Magistrate, Bhilwara, sent the verification report of the character and antecedents in which it has been mentioned that a case No. 24/2003 was filed against the applicant at

Police Station Subhash Nagar, Bhilwara, under Section 147, 149, 323 IPC and accordingly on the basis of the verification report his services were terminated because he considered the fact about his conviction in Case No. 24/2003 under Section 147, 149 and 323 IPC and thus, the order passed by the competent authority does not suffer from any illegality.

3. By way of rejoinder the applicant while reiterating the same facts averred that in the Criminal case No. 24/2003 the benefit of Section 5 of probation was extended to the applicant because he was minor at the time of commission of the offence.

4. Heard both the parties.

5. Both the parties agreed that the appeal filed by the applicant under the relevant rules is pending before the Director, Postal Services (Respondent No.3). The applicant averred that the same is not being decided (Annex.A/9) without any reason and he has also served a reminder Annex.A/10. Looking to the entire facts and circumstances of the case, we are proposing to dispose of this application with the directions to the respondent No. 3 to decide the appeal within three months from the date of receipt of the order and further the respondent is directed to duly consider all the relevant facts and grounds mentioned in the memo of appeal filed before him. Accordingly, the application is disposed of with no order as to costs.

Meenakshi Hooja
[Meenakshi Hooja]
Member (A)

K.C.Joshi
[K.C.Joshi]
Member(J)