

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.429/93

Thursday, this the 10th day of February, 1994.

SHRI N DHARMADAN, MEMBER(J)
SHRI S KASIPANDIAN, MEMBER(A)

R Padmanabhan,
S/o Ramankutty, Aged 44 years,
Thodiyakavu Veedu,
Thachangadu P.O. Mathur,
Palghat(EDBPM, Thachangadu PO) - Applicant

By Advocate Mr MR Rajendran Nair

Vs.

Senior Superintendent of Post Offices,
Palghat Division, Palghat. - Respondent

By Advocate Mr K Karthikeya Panicker, ACGSC

O_R_D_E_R

N DHARMADAN, MEMBER(J)

Applicant is challenging Annexure-I, a notice dated 20.2.1993 issued under Rule 6 of the P&T ED Agents(Conduct and Service)Rules, 1964 proposing to terminate his regular selection on the ground that the selection was irregular.

2. According to him, he was regularly selected as Extra Departmental Branch Postmaster and provisionally appointed as per Annexure-III order with effect from 12.11.1992. He satisfied all the criteria for selection and also completed the training and that there was no irregularity in the selection. But Annexure-I proposal was made for terminating his services

on the ground that there are irregularities in the selection. The learned counsel for the applicant submitted that somebody who did not get selection filed a complaint. It is on the basis of the same that the present proposal has been made. But the appointing authority who had made the selection in accordance with the rules has no power under rule-6 of the aforesaid rules to terminate an appointment. Similar question according to the applicant was considered by this Tribunal in OA-197/92 and OA-229/92. He further submitted that his case squarely covered by the decision of this Tribunal in OA-1614/92.

3. This Tribunal has taken the view that the cancellation of a valid selection solely on the basis of a complaint of a defeated candidate in the selection is not ~~proper~~ proper unless there is some grave irregularity in the selection and gross injustice to the candidates who participated in the selection. The only ground is that one Shri C. Mohanan, who participated in the regular selection, got the highest mark and hence the selection is irregular. Highest mark in the SSLC is not the sole criterion for the selection. This Tribunal has considered the issue and laid down the criteria for the selection. The authorities are bound to follow the above judgement and make the selection applying all the criteria for the selection. The notice does not mention any reason for the proposal to cancel the selection, except stating that selection was irregular.

The details and the nature of irregularity has not been specifically mentioned in the notice. However, we are of the view that the termination can be effected only after satisfying the principles of natural justice. The applicant should be informed of the details of the irregularities by issuing facts and further details of irregularity. The applicant should have been given an opportunity of being heard or filing his representation against the same. No such opportunity was given to him. Under these circumstances, the contention that judgement in the earlier cases of this Tribunal would apply to the facts of the case cannot be rejected accepting the contention of the respondents. The applicant should have been given an opportunity to place his case as indicated above before actually implementing the proposal/termination as contemplated in Annexure-I. In other words, only after considering his objections final orders should be passed in this case.

4. At the time when the OA was admitted on 10.3.1993, this Tribunal passed an interim order maintaining the status quo regarding the continuance of the applicant in the Post Office. That interim order will continue till the termination of the applicant in accordance with law after giving him due notice and following the normal procedure.

5. Hence under the aforesaid circumstances, the application is disposed of with the above directions which shall be complied

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with within a period of four months from the date of receipt
of a copy of this order.

6. The OA is disposed of as above. No costs.

S. Karp

(S KASIPANDIAN)
MEMBER(A)

N. Dharmadhan

(N DHARMADAN)
MEMBER(J)

TRS