

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.44 of 1998.

Friday this the 11th day of August, 2000.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

V. Santhakumari,
Extra Departmental Delivery Agent,
Kaipattur P.O.,
Arakunnam, Pin: 682 313. Applicant

(By Advocate Shri P.C. Sebastian)

vs.

1. The Sub Divisional Inspector (Postal),
Tripunithura Sub Division,
Tripunithura-682 301.
2. The Senior Superintendent of
Post Offices,
Ernakulam Division,
Kochi -682 011.
3. The Postmaster General,
Central Region,
Kochi -682 016.

(By Advocate Shri Sunil Jose, ACGSC)

The application having been heard on 11.8.2000, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-1 and to declare that she is entitled to continue as Extra Departmental Delivery Agent (EDDA for short), Kaipattur as long as the post is retained and that her services are not liable to be terminated under Rule 6 of the Post & Telegraphs, (P&T for short) ED Agents (Conduct and Service) Rules "except for unsatisfactory work unconnected with her conduct."

2. Applicant is working as EDDA, Kaipattur P.O. w.e.f. 24.12.1996. Interview was held for the vacancy of EDDA Paingarapally P.O. and she was informed by the first respondent that she was selected on the basis of merit and she was directed to undergo for training there for four days. Before the commencement of the training the first respondent informed her that there was a vacancy of EDDA at Kaipattur P.O and she could be appointed there, if she is willing. She gladly accepted that offer and she was thus appointed at Kaipattur. A-1 impugned order terminating her services has now been served on her. A representation was submitted requesting to withdraw the A-1 impugned order.

3. Respondents resist the O.A. contending that A-1 order was issued giving an opportunity to the applicant to submit her representation if any, against the proposed termination. Authority higher than the appointing authority has been vested with powers to review and pass appropriate remedial orders in case of irregular appointments. Applicant's appointment was found to be irregular and as such the same was reviewed by the 2nd respondent and show cause notice was issued. In the notice of termination it is not necessary to record the reason for termination in A-1.

4. Learned counsel appearing for the applicant argued that in A-1 impugned order no reason is stated excepting vaguely stating that the applicant's services shall stand terminated for administrative reasons and non-specifying of the reason is taken as ground for quashing A-1. It is true

that A-1 only says that for administrative reasons the services of the applicant shall stand terminated w.e.f. the date of expiry of the period of one month from the date on which the notice is served on her or as the case may be tendered to her.

5. A-1 notice is issued under Rule 6 of P&T ED Agents (Conduct and Service) Rules 1964. In P Radha Vs. Post Master General, Kerala Circle, Trivandrum and another (1987) 4 ATC 734, it has been held that Rule 6 of P&T ED Agents (Conduct and Service) Rules enables the appointing authority to terminate the service of an employee, who has not completed three years of continuous service, at any time without any notice, that if the order of termination imputes any stigma, then the person affected may question the validity of the order as such as a stigma has been imputed to him without the conduct of enquiry and without giving any reasonable opportunity and that order of termination simpliciter cannot be quashed on the ground that no reasons have been given in the order. Here there is no stigma as per A-1. The termination proposed is purely on administrative reasons and that cannot impute any stigma to the applicant. It is the admitted case of the applicant that she has not completed three years of service. That being so, in the light of the said ruling the argument advanced by learned counsel for the applicant that for want of non-specification of the reason in A-1, A-1 is liable to be quashed, cannot exist.

6. Learned counsel appearing for the applicant further argued that termination of service of the applicant on

administrative ground contemplate by Rule 6 of ED Agents (Conduct and Service) Rules is a ground or reason that arises after the appointment and that on grounds that have arisen before or in regard to the appointment, termination cannot be done under Rule 6. In support of this argument reliance is placed in the ruling in Postmaster Vs. Usha (1987 (2) KLT 705.

7. Here the facts as borne out by Annexure R-2(c) which is not under dispute are that the applicant was actually a candidate sponsored by the Employment Exchange for the post of EDDA, Pulickamali in the list dated 20.9.96 against the requisition placed by Ist respondent for the post of EDDA, Pulickamali, that she was seen selected to the post of EDDA, Pulickamali, without observance of due procedures for selection and even without being appointed to the post was "transferred" and appointed as EDDA, Kaipattur, on consequent transferring of the incumbent of EDDA Kaipattur as EDDA, Kokkappalli.

8. The facts in Postmaster General Vs. Usha, cannot be said to be exactly identical to the facts of the case at hand.

9. In Tilak Dhari Yadav Vs. Union of India (1997)36 ATC 539 (FB), the Full Bench of the Tribunal has held that "

"Rule 6 of Posts and Telegraphs Extra-Departmental Agents (Conduct and Service) Rules, 1964 does not confer a power on the appointing authority or any authority, superior to the



appointing authority to cancel the appointment of an Extra Departmental Agent who has been appointed on a regular basis in accordance with rules for reasons other than unsatisfactory service or for administrative reasons unconnected with conduct of the appointee, without giving him an opportunity to show cause."

10. From Annexure R-2, it is clear that the appointment of the applicant was not in accordance with the procedure and that being so, we are unable to find anything wrong in A-1 impugned order.

Accordingly, O.A. is dismissed. No costs.

Dated the 11th August 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexures referred to in the order:

Annexure A-1: True copy of the notice in Memo No.DA/V. Santha dated 19.-12-1997 issued by the Ist respondent.

Annexure R-2(c): A photo copy of the direction dated 18.12.97. (Memo No. SSP/Con/1-2/97-98).