

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 2.4.1990

PRESENT

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. 610/1989

S. Gandhirajan

Applicant

Vs.

1. The Sub Divisional Inspector of Post Offices, Munnar, Kerala
2. The Post Master General, Kerala Circle, Trivandrum and
3. Union of India represented by its Secretary to Government Department of Post, Ministry of Communications, New Delhi

Respondents

Mr. M. R. Rajendran Nair

Counsel for the applicant

Mr. T.P.M. Ibrahim Khan, ACGSC

Counsel for the respondents

JUDGMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant in this case was an Extra-Departmental Mail Carrier at Khajanappara. He approached this Tribunal challenging Annexure-I order of termination of his services with effect from 14.10.89 under Rule 6 of E.D. Agents (C & S) Rules, 1964. He raised various contentions. But at the time when the case was taken up for hearing the learned counsel

appearing for the applicant brought to our notice ground-F in the Original Application which reads as follows:

"At any rate the termination of applicant's services is violative of principles of natural justice and therefore null and void. Applicant's services are terminated on the basis of some complaints regarding the selection, without giving him an opportunity to show cause against the proposed action. No enquiry was conducted and everything was done behind his back."

2. In answer to ground-F the respondents have stated in the counter affidavit as follows:

"As there were public complaints in the selection of the Extra Departmental Agent ignoring the age limit, the selection file was called for, by the Supdt. of Post Offices, Idukki Division and on review of the selection, it was found that the applicant was aged 34 years and there were persons of preferential age group among the applicants for the post. In order to set it right, Sub Divisional Inspector, Munnar, who is the appointing authority was asked to modify the selection as per standing orders, and accordingly he issued the termination order under Rule 6 of Post & Telegraphs Extra Department Agents (Conduct and Service) Rules, 1964 (Annexure-I of the O.A.) and the applicant has filed the application against this order."

This is again repeated in para 5 of the counter affidavit. The respondents have also produced Ann. R(A), PMG's letter dated 12.8.87 dealing with the selection of EDAs.

3. We have heard the matter in detail. The only contention to be considered in the light of the aforesaid submissions of the counsel on both sides is whether the termination order is violative of the principles of natural justice. It is an admitted fact that before terminating the services of the

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applicant no notice was given to him nor was he given an opportunity of being heard in the matter. The applicant has a case that he is fully qualified and eligible for the post and the selection was legally and bonafide made by the competent authority. But there was no opportunity for him to establish his contentions and sustain the order of appointment.

4. We have already considered identical issues in two of the earlier judgments in OA^K 201/87 and O.A. 589/89. In O.A.K-201/87 the Tribunal held as follows:


" It has also to be pointed out that if as a matter of fact it emerged that there was some irregularity in the selection warranting the termination of the service of the selected candidates, the principles of natural justice dictate that before doing so, an opportunity should have been afforded to the applicant of being heard. In this context we would refer to the decision of a Bench of this Tribunal to which one of us was a party (Hon'ble Shri G. Sreedharan Nair) in V. P. Tressia Vs. Sr. Supdt. of Post Offices (O.A.K. 249/87) decided on 28.2.89 where the proposal to terminate the services of a selected candidate as the applicant in the instant case, behind her back without affording her an opportunity of being heard, on receipt of complaint about the selection was deprecated and it was held that in case action is to be taken to the prejudice of the applicant therein, due notice shall be given to her. We affirm the principle laid down therein."

5. In the light of the ^{above} said principle we have only to allow the application and set aside the order of termination. Accordingly, we allow the application and quash Annexure-I. With regard to the further contentions raised in the application, we are of the opinion that it is unnecessary for us to go in to them.

6. In the result, the application is allowed as above without any order as to costs.


(N. Dharmadan)
Judicial Member

2.4.90


(N. V. Krishnan)
Administrative Member

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