

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

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Original Application No. 236 of 1990

this the 31st day of July, 1997.

HON'BLE MR S. DAS GUPTA, ADMN. MEMBER
HON'BLE MR D.C. VERMA, JUDICIAL MEMBER

Dinesh (Kumar) Saxena, aged about 30 years, S/o Sri Lal
Man Saxena, R/o Village & Post Office Gandhu Nagla,
Ghaziabad.

Applicant

By Advocate : Sri Gulam Rabbani

Versus

Union of India through Chief Post Master General,
Lucknow.

2. Senior Superintendent of Post Offices, Ghaziabad
Division, Ghaziabad.

Respondents

By Advocate : Dr. D. Chandra

ORDER (ORAL)

S. DAS GUPTA, MEMBER (A)

Through this application under section
19 of the C.A.T. Act, 1985, the applicant has challenged
the order dated 31.5.88 by which his services as
Extra Departmental Branch Post Master (in short E.D.B.P.M.)
Gandhu Nagla, Ghaziabad, were terminated with immediate
effect. The applicant has sought quashing of the
impugned order and ^{has} further prayed to provide all consequen-

tial financial reliefs . . .

2. The undisputed facts in the case are that the applicant was initially appointed as Substitute on 26.3.87 as E.D.B.P.M., Gandhu Nagla, Ghaziabad on the recommendation of one Sri Raja Ram, Mail Overseer, who was holding the charge of the post office. Subsequently, the regular selection was made. The Employment Exchange forwarded three names including the name of the applicant and after proper selection, the applicant was appointed on provisional basis by the appointment letter dated 21.12.87 (Annexure-9). Since ^{he} he had been working until his services were terminated by the impugned order dated 21.5.88. The applicant has challenged this order on the ground that the said order was issued without affording any opportunity to him and, therefore, it is illegal.

3. The respondents have contested the case by filing Counter affidavit in which they have brought-out that after the applicant was appointed on provisional basis, a reference was made for police authorities for verification of his character and antecedents of the applicant. In response, the police authorities informed by the letter dated 13.4.88 (Annexure R-2) that the applicant was involved in a criminal case under section 323 & 324 IPC which had already been decided but in other criminal case under section ^{380 IPC} ~~447~~ in which he ^{was} also involved, still sub-judice. On receipt of this report, the respondents terminated the services of the applicant by the impugned order. The respondents have also taken a plea regarding non-maintainability of this application. It has been stated that the application

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in the appointment letter itself.

in conformity with the service conditions as set-out termination of the services of the applicant is thus, the applicant notifying the other in writing. The liable to be terminated by appointing authority or employment as EBBPM shall be in nature of a contract there is a clear provision that the applicant's & Service) Rules 1964 as amended from to time. Thus, governed by PAF Extra Departmental Agents (Conduct It was also stipulated that the applicant shall be the applicant by notifying the other in writing. liable to be terminated by appointing authority or his employment was stated to be in nature of a contract as set out in the appointment letter at Annexure-9.

6. It is seen from the conditions of appointment

order.

stigmatic and penal order in the garb of a simplifier be normally challenged unless it is shown to be a issued in terms of the condition of the service cannot simplifier order. A simplifier order which has been 5. The impugned order on the face of it is a

was acquitted on 24.1.93.

under section 380 IPC was also decided and the applicant in which he has brought out that criminal case 4. The applicant has filed Rejoinder affidavit

arisen in Ghaziabad.

admission in the O.A. and the cause of action had also applicant is a resident of Ghaziabad by his own not have the jurisdiction in this matter as the limitation and that this Bench of the Tribunal does has not been filed within the prescribed period of

7. The question still remains whether the said

The respondents have themselves indicated the reasons why the applicant's services were terminated. It is common knowledge that the appointment of a public

servant is made either after proper police verification or in some cases provisional appointment is made

subject to verification of character and antecedents by the police authorities. In the present case, it appears that second alternative was adopted and the

applicant was given provisional appointment subject to police verification report. There is no denial that

in the police report, it was indicated, that the applicant was involved in a criminal case, but

it was ultimately decided on the basis of a compromise

ALSO INVOLVED, there has been no decision at the time the order of termination. If, therefore, the

respondents have come to the conclusion that being ~~as~~ involved in an earlier criminal case which had been

decided on the basis of compromise and another criminal case, which is still pending, the applicant

we find that the respondents have done ~~xxxxxxxxxx~~

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

•X-100 nothing but a wrong.

8. Even otherwise, this application is not maintainable on two grounds. In the first place, on

his own admission, another person had been appointed after his services were terminated. The applicant has

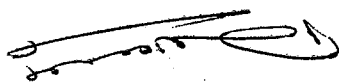
not impleaded that ~~xx~~ person. Therefore, no order can be passed in favour of the applicant which will

adversely affect the subsequent appointee. The

second ground is that this Bench of the Tribunal has no jurisdiction to entertain this application as neither the cause of action had arisen within the jurisdiction of this Bench nor the applicant is residing within its jurisdiction. The applicant's plea that his brother is residing in Lucknow cannot be of any assistance to the applicant.

9- In view of the foregoing, the O.A. is dismissed. The parties shall bear their own costs.

10. The learned counsel for the applicant submitted that at least a direction be given to the respondents to consider the case of the applicant for appointment on any other E.D. Post on future vacancy, as he no longer under a cloud. No such direction can be given to the respondents. It is for the applicant who make a representation to the authorities, if so advised and for respondents to consider the representation if made, in accordance with the law.



MEMBER (J)



MEMBER (A)

LUCKNOW: DATED: 31.7.97