

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

O.A.No.470/92

Prem Sagar Yadav

:::::::::: Applicant.

Vs.

1. Union of India,
through Secretary,
Posts and Telegraphs
Department, Central
Secretariate, New Delhi.

2. Chief Post Master
General, U.P.Circle,
Lucknow.

3. Superintendent of Post
Offices Basti Division,
Basti. :::::::

Respondents.

Hon. Mr. S.N. Prasad, J.M.

(By Hon. Mr. S.N. Prasad, J.M.)

Briefly stated the facts of this case, inter-alia, are that the applicant's father Shri Vasist Yadav, deceased, was Branch Post Master at Ahra, District Basti, who died while he was in service on 14-12-91 at the age of 48 years (Annexure No.1) and after the death of the aforesaid Vasist Yadav the applicant represented the matter to the authorities concerned for being appointed on compassionate grounds as after the death of the aforesaid Vasist Yadav, who was the bread-earner in the family, the financial position of the family became too unsound to maintain themselves and the respondents vide order dated 9-1-91 (Annexure No.2) provisionally employed the applicant on condition that in case the certificate submitted by the applicant were not found satisfactory or other eligibility criteria were not ~~found~~ ^{and fulfilled} found applicable in the case of the applicant.

~~applicant~~, then in that case the appointment of the applicant shall automatically stand terminated.

2. The main grievance of the applicant appears to be, as mentioned in his application, is that though after having been employed on compassionate ground by the respondents, and the applicant was discharging his duties satisfactorily, all of a sudden, his services were terminated on the plea that his brother ^{~ son ~} Shri ~~Vijay~~ Sagar Yadav (one of the sons of the deceased ~~Government~~ employee) was in employment, so the appointment of the applicant on compassionate ground is not justified and consequently the services of the applicant were terminated by the impugned orders dated 19-8-92, 27-8-92 and 28-8-92 (Annexures A-5, A-9 and A-10 respectively); hence the applicant has approached this Tribunal.

3. Counter-Affidavit has been filed by the respondents with the contentions, inter-alia, that the appointment of the applicant was provisional and as specified in his appointment letter dated 9-1-92 (Annexure No.2) wherein it was clearly specified that in case the certificates annexed by the applicant ^{~ and other eligibility criteria are not fulfilled ~} are not found satisfactory, the appointment of the applicant shall stand automatically terminated. It has further been contended that there is no illegality in passing the above impugned order.

4. I have heard the learned counsel for the parties and thoroughly gone through the contents of the application and the papers annexed thereto.

5. The learned counsel for the applicant while drawing my attention to the contents of the application and the papers annexed thereto and particularly the certificate dated 27-8-92 issued by the Pradhan of the Village concerned (Annexure No.8), has argued that the brother of the applicant viz. Shri ~~Vidya~~-Sagar Yadav, was in service prior to the death of the aforesaid deceased ~~Government servant~~ Shri Vasist Yadav (father of the applicant) and that Shri ~~Vidya~~ Sagar Yadav, ^{from his father} brother of the applicant, was living separately and the employment of the aforesaid ~~Vidya~~-Sagar, does not affect the merit of the applicant and has further contended that this fact was not concealed at the time of his appointment, as such the applicant is entitled to the relief sought for.

6. The learned counsel for the respondents, while drawing my attention to the pleadings and the papers annexed to the ~~Case~~ has argued that the appointment of the applicant was quite provisional subject to fulfilment of conditions specified therein and was cancelled subsequently when his brother Shri ~~Vidya~~ Sagar ^{Vashistha Yadav} Yadav (one of the sons of the deceased ~~Government servant~~) was in employment, and the services of the applicant have been terminated properly and legally.

7. This is significant to point out that a perusal of Annexure ~~No~~-8 which is the certificate issued by the Gram Pradhan concerned, shows that the brother of the applicant Shri ~~Vidya~~ Sagar ^{had been} was living separately prior to the death of the aforesaid deceased Shri Vasist-Yadav, but this fact should not be lost sight of that despite the aforesaid certificate, other relevant

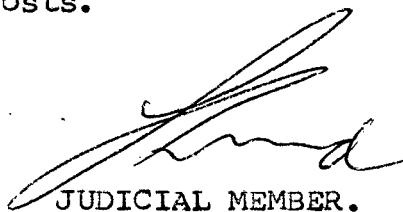
documents in proof of his brother's having been living separately i.e. Kutumb Register, Electoral Roll etc. have not been filed by the applicant. A perusal of ~~the~~ paras 12 & 13 of the counter-affidavit filed by the respondents shows that there is no clear denial regarding the averments made by the applicant in para 4.12 of the O.A.

8. This is important to point out that a scrutiny of the relevant papers and material on the records shows that the applicant was appointed on 9-1-92 (Annexure No.2) and his appointment order was cancelled by order dated 19-8-92 (Annexure No.5) by respondent No.2 and as such it is apparent that after rendering services of more than 7 months, his appointment was cancelled without affording him reasonable opportunity of being heard and thus this being so, it becomes obvious that the principles of natural justice have been violated in this case. Thus, the impugned orders dated 19-8-92, 27-8-92 and 28-8-92 (Annexures 5, 9 & 10) are not sustainable in the eyes of law and deserve to be quashed and they are hereby quashed.

9. Thus, from the foregoing discussions and after considering all view points and all aspects of the matter I find it expedient that it will meet the ends of justice if the respondents are directed to consider the matter of the applicant afresh from proper perspective and decide the representation of the applicant dated 22-8-92 (Annexure-6) keeping in view the extant rules and regulations and keeping in view the averment of the applicant to this effect that the brother of the applicant Shri Daya Sagar has been living separately prior to the death of the aforesaid Shri Vasist, (father of the applicant), after affording reasonable opportunity to the applicant to prove his averments and to redress the grievance of the applicant accordingly within a period of three months from the date of receipt of the copy of this

judgement; and I order accordingly.

10. The application of the applicant is disposed of as above. No order as to costs.



JUDICIAL MEMBER.

Dated: 17-2-94, Lucknow.

17.2.94

(tgk)