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Registration O.A.No. 356 of 1989 (L)

Vs.

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(By Hon. D.K.Agrawal, JM)

2. Briefly, the facts giving rise to this Application are that in May 1988, a selection was held for appointment to the post of Extra Departmental Mail Career (for short EDMC). The Applicant was selected and appointed by an order dated 23.5.1988 as EDMC and since then he had been working. It appears that some complaints were made to the Post Master General. The Director, Postal Services held an enquiry and thereafter he directed the appointing authority to cancel his selection and appointment. In pursuance of that direction, the Superintendent of Post Offices, Hardoi Division, Hardoi by his order dated 15.12.1989 cancelled the order of appointment dated 23.5.88 of the Applicant and thereby relieved the Applicant of his duty immediately.

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3. Learned counsel for the Applicant urged that the result of cancellation of appointment order was that the Applicant's services stood terminated without giving him any opportunity of hearing. We find considerable force in the contention. In the Counter Affidavit filed on behalf of the Respondents, it has been alleged that the Applicant's appointment has been cancelled on account of irregularities found in the selection. The Applicant has, however, asserted that he has not been given any opportunity of hearing at any stage- either during the course of inquiry or before issuance of the order. Since the Applicant had been appointed after his selection and had already worked for more than 18 months, he acquired a right to continue in service unless the same was terminated in accordance with rules. If there was any irregularity committed in the selection and the authorities proposed to cancel the selection, the Applicant should have been given an opportunity of hearing. Since no opportunity has been given to the Applicant, the principle of natural justice stand violated and order passed in breach of principles of natural justice is rendered null and void and it is not necessary to demonstrate any prejudice (See S.L.Kapoor Vs. Jag Mohan -A.I.R. 1981 S.C. 136).

4. Learned counsel for the Respondents urged that since the Applicant was appointed in temporary capacity his services were terminated without assigning any reason and as such, order of termination is valid. We find no substance in this plea. The impugned order dated 15.12.1989 indicates that the Applicant's services were not terminated in accordance with the terms and condition of his service. The impugned order clearly mentions that

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the appointment order was cancelled in pursuance of direction issued by Director, Postal Services. Consequently it is clear that the Applicant's services have not been terminated in accordance with the terms and conditions applicable to temporary Govt. servants, instead his appointment order has been cancelled and he has been put off duty under the orders of Director Postal Services as a result of an inquiry. In this view of the matter, in our opinion, the impugned order cannot be sustained in law.

5. In the result we allow this Application, quash the impugned order dated 15.12.1989. However, we may make it clear that the authorities will be at liberty to conduct the regular inquiry and take action, if warranted by law. There will be no order as to costs.

MEMBER (A)

15/4/1990

Dated:
kkb

April, 1990

MEMBER (J)

19.4.90.