

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

Review Application No. 68/2000

Shri Arbind Kumar Singh vs. Union of India & Ors.

ORDER BY CIRCULATION

The application is for review of our order dated 7.8.2000, dismissing the OA 96/96 filed by the applicant against the order of termination of his services as EDBPM, Hariharpur branch post office dated 25.1.1995.

2. The applicant had been appointed to the post vide order dated 25.1.1995, and the termination of his services before he completed 8 months was under Rule 6 (B) of P&T EDAs (Conduct & Service) Rules, 1964. The termination was as per instructions given by the Director of Postal Services on the grounds that his appointment was irregular, because he did not submit the valid documentary proof of his ownership of land. The Director had found that the only document submitted by the applicant along with his application for appointment was a photo copy of a gift deed dated 31.8.1994, which was not a valid document.

3. It is the case of the applicant in his review application that in the notification dated 14.11.1994, calling for applications for appointment to the post, the only condition regarding ownership of



property and income was that the candidate should have independent source of income either from ~~the~~ landed property or from any other asset, and that the possession of landed property by gift deed should be supported by revenue receipt. It is contended that Section 122 of the T.P. Act lays down that since the gift is registered and the donee accepts the same, it comes to the exclusive possession of the donee. The order of the Tribunal dated 12.8.92 in OA 674/91 is cited to buttress the case of the applicant, and it is pointed out that this was available at annexure 10 of the OA.

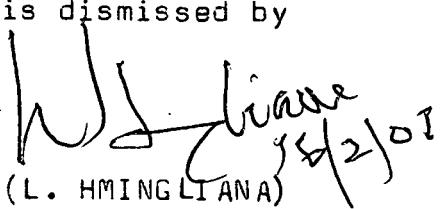
4. Whether the gift deed executed by the donee is a conclusive proof of the transfer of property is not the relevant question here. ^{we} ~~we~~ are satisfied that the applicant did not produce the original of the gift deed, and his appointment to the post without his having established his ^{we} eligibility was irregular, and we dismissed the challenge to the termination order, though it was issued on the instructions given by the Director. When we could ^{for ourselves} ~~see on~~ the basis of the pleadings before us that the appointment of the applicant to the post was ^{we} ~~we~~ irregular, we ^{we} ~~are~~ constrained to dismiss his application, though show cause had not been



issued to him.

5. It was not the case of the applicant in the OA that he produced the original of the gift deed even at the time of verification of documents or that he produced any other documents to prove his possession of landed property. Then it was plain that he was not eligible for the appointment. In the order of the Tribunal dated 12.8.1992 in OA 674/91, the issue was not whether a photocopy of the sale deed in that matter was a valid document or not, and our order is not contrary to it. The appointment of an ineligible candidate to a post is irregular, and it cannot be allowed to be prolonged, and it has to be cancelled or quashed. When the appointing authority himself who made the irregular appointment of an ineligible candidate does not cancel appointment on his own, his superior is bound to give direction to him to cancel the irregular appointment. Then, there is no case for review of our order.

6. The review application is dismissed by circulation.


(L. HMINGLIANA)
(A)

Lakshman Jha, Member (J)

I agree
22.2.2011