

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

INDEX SHEET

CAUSE TITLE OA 356 OF 89

NAME OF THE PARTIES Rakesh Bajaj Applicant

Versus

..... Union of India Respondent

Part A.

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

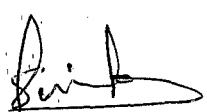
Dated 17-6-2011

Counter Signed.....

Re-Check
on 3/2/12

Regd

Section Officer in charge



Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 386 of 1989

APPLICANT(S) Ram Pal

RESPONDENT(S) U.T. L.

	<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1.	Is the appeal competent ?	Y
2.	a) Is the application in the prescribed form ?	Y
	b) Is the application in paper book form ?	Y
	c) Have six complete sets of the application been filed ?	Y
3.	a) Is the appeal in time ?	Y
	b) If not, by how many days it is beyond time?	
	c) Has sufficient cause for not making the application in time, been filed?	
4.	Has the document of authorisation/ Vakalatnama been filed ?	Y
5.	Is the application accompanied by B.O./Postal Order for Rs.50/-	Y
6.	Has the certified copy/copies of the order(s) against which the application is made been filed?	Y
7.	a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Y
	b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Y
	c) Are the documents referred to in (a) above neatly typed in double space ?	Y
8.	Has the index of documents been filed and paging done properly ?	Y
9.	Have the chronological details of representation made and the outcome of such representation been indicated in the application?	Y
10.	Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	N

(A2)

18 2 88

Particulars to be Examined

Endorsement as to result of examination

1. Are the application/duplicate copy/spare copies signed ? *Y*

2. Are extra copies of the application with Annexures filed ?
a) Identical with the Original ?
b) Defective ?
c) Wrong in Annexures
No. _____ pages _____ ?

3. Have the file size envelopes bearing full addresses of the respondents been filed ? *Y*

4. Are the given address the registered address ? *Y*

5. Do the names of the parties stated in the copies tally with those indicated in the application ? *NA*

6. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? *NA*

7. Are the facts of the case mentioned in item no. 6 of the application ?
a) Concise ?
b) Under distinct heads ?
c) Numbered consecutively ?
d) Typed in double space on one side of the paper ? *Y*

8. Have the particulars for interim order prayed for indicated with reasons ? *Y*

9. Whether all the remedies have been exhausted. *Y*

anushy

671 356/64/((X))

.. X ..

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---	---	---

Hon' Mr Justice Kamleshwar Nath, V.C.

Hon' Mr K. Obayya, A.M.

1/1/90

Shri H.N. Tilhari, learned counsel for the applicant and Dr. Dinesh Chandra, learned counsel for the opposite parties are present. The impugned order Annexure-1 dated 15.12.89, cancelling the appointment order of the applicant is based on Annexure-2, the letter dated 7-12-89, of the Director of Postal Services, Lucknow Region. One of the facts stated in Annexure-2 is that the Post Office Pali within whose area the applicant resides, is the Post Office of origin of mails. According to the applicant the Post Office of Jeora, where the applicant has been posted is within the mail delivery area of the main Post Office at Pali. The applicant's learned counsel has referred to para 5 (2) of method of recruitment under the instructions of the Director General of Postal Services to point out that appointment of a person can be made who is a permanent resident of the delivery jurisdiction of the Post Office.

Copies of the application meant for Opp.Ps. have been delivered to Dr. Dinesh Chandra. He requests for and is allowed four weeks time to obtain instructions and the case be listed for admission orders on 30-1-90 on which date the case may be disposed of finally.

In the mean time the operation of the impugned order dated 15.12.89 contained in Annexure-1 shall remain stayed and the applicant will be allowed to continue to work as Extra-Departmental Mail Carrier as in the past. It will be open to the Opp.Ps. to apply for modification or revocation of this interim order on filing a proper counter affidavit.

No reply filed
Submitted for

Opp.Ps.

A.M.

(sns)

V.C.

admission

29/1/

12/4/90 Hon. P. S. Habib Mohammad, A.M.
Hon. J. P. Sharma J.M.

On the adjournment application of
Shri D. Chandra counsel for repts.,
the case is adjourned to 18.4.90
for admission hearing. Shri H.N. Tilhani
for the applicant is present.

D.C.

J.M.

H.N.T.

J.M.

18/4/90 Hon. Mr. D.K. Agrawal, J.M.,
Hon. Mr. P.S. Habib Mohammad, A.M.

Shri H.N. Tilhani, for the
applicant and Shri D. Chandra, for
the opp. ps. are present.

we heard the learned counsel
on merits of the case. Judgment reserved.

H.N.T.

J.M.

D.K.A.

19.4.90 Hon D.K. Agrawal J.M.
Hon P.S. Habib Mohammad, A.M.

O.A. has been allowed with
the liberty to authorities to conduct
a regular inquiry and take action
if warranted by law. No order
as to costs.

D.C.

H.N.T.

J.M.

J.M.

(A7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
A L L A H A B A D

CIRCUIT BENCH LUCKNOW

OA

RA. NO. 356 1983 L.

DATE OF DECISION 4.9.0

R. Khan Babu PETITIONER

Sri H. M. Tilhani Advocate for the
Petitioner (s)

VERSUS

Superintendent Post offices RESPONDENT
2 others

Sri D. Chandra Advocate for the
Respondent (s)

CORAM :

The Hon'ble Mr. D. K. Agarwal, I.A.

The Hon'ble Mr. P. S. Habeeb Mohammad, I.A.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to other Benches ?

D. K. Agarwal

(AS)
Reserved

Central Administrative Tribunal, Allahabad.
CIRCUIT BENCH LUCKNOW.

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

Rakesh Baboo ... Applicant

Vs.

Superintendent of Post
Offices, Hardoi Division
Hardoi and others Respondents.

Hon. D.K.Agrawal, JM
Hon. P.S. Habeeb Mohammad, AM

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

By means of this Application u/s.19 of the
Administrative Tribunals Act XIII of 1985, the Applicant
has prayed us for issue of writ of certiorari quashing
the order dated 15.12.1989 passed by Superintendent of
Post Offices, Hardoi Division, Hardoi.

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.

Okay

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

Dreagmash

AIO

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) 19/4/1990

DK Regd
MEMBER (J) 19.4.90.

Dated: April, 1990
kkb

In the Central Administrative Tribunal (Allahabad Bench)
Sitting at Lucknow. *(Deputy Registrar (J))*

Case No. 356 of 1990 (L)

Application u/s 19 of Central Administrative
Tribunal's Act, 1985.

Rakesh Baboo:

-----Applicant

Versus

Superintendent of Post Offices,
Hardoi Division, Hardoi and others. -----Respondents.

I N D E X.

S.No.	Description of papers.	
1.	Application u/s 19 of the Act.	1 to 7
2.	Order dated 15.12.89 passed by Superintendent P.O. Hardoi. (Annexure No.A-1).	13
3.	Letter/order dated 7.12.89 from Office of D.P.S. Lucknow Range (Annexure No.A-2).	14-15
4.	Order of petitioner's appointment as E.D.M.C. Jeora dated 23.5.88. (Annexure No.A-3)	16
5.	Postal Order No. issued by Post Office - <u>Ammaned Park Lucknow</u> .	dated 28.12.89
6.	Vakalatnama in favour of Sri H.N.Tilhari, Advocate with Sri Sanjai Verma, Advocate, for applicant.	

Signature of applicant.

Note for 1-1-1990
Sapna
(AD)

filed today
29/12/89

Hari Nath Motilal Tilhari
Advocate

Signature of Counsels
for applicant.

Central Administrative Tribunal
Circuit Bench
Date 29-12-89
Date of filing 29-12-89

AI2

V Deputy Registrar (J)

In the Central Administrative Tribunal (Allahabad Bench)
Sitting at Lucknow.

Case No. 356 of 1989 (J)

Application u/s 19 of the Administrative Tribunals
Act, 1985.

Rakesh Baboo, aged about 24 years,
son of Sri Nankau Singh, resident of
Mohalla Saif Sarai, Pali (T.A.),
P.O. Pali, District Hardoi.

Applicant

Versus

1. Superintendent of Post Offices,
Hardoi Division, Hardoi.
2. S.D.I. (P) North Sub-Division,
Hardoi.
3. Post Master, Hardoi.
4. E.D. Branch Post Master Jeora,
Hardoi.
5. Director of Postal Services,
Lucknow Region, Lucknow.
6. Union of India through the Secretary,
Ministry of Communication,
Post & Telegraph, Government of India,
New Delhi.

Respondents.

1. Particulars of Applicant :

- i) Rakesh Baboo, aged about 24 years, son of i.e.
- ii) (Father's name) Sri Nankau Singh Pandey.

Encl 2, 31/91

AIS

-2-

iii) E.D. Agent i.e. Extra Departmental
Mail Carrier Jeora E.D.O. in account
with Palli S.O. District Hardoi under
Post Master Hardoi.

iv) Address: Rakesh Baboo, son of Sri Nankau Singh,
Mohalla Saif Sarai, P.O. Pali,
District Hardoi.

2. Particulars of Respondents :

The particulars of all the six respondents
are as follows have been noted above in the title
of the petition and being repeated hereinafter:-

- i) Superintendent of Post Offices,
Hardoi (D.N.O), Hardoi.
- ii) S.D.I. (P) North Sub-Division, Hardoi.
- iii) Post Master, Hardoi.
- iv) E.D.Branch Post Master Deora, Hardoi.
- v) Director of Postal Services,
Lucknow Region, Lucknow.
- vi) Union of India through Secretary,
Ministry of Tele-Communication,
Post & Telegraph, New Delhi.

3. Particulars of order against which this
application is being made :

This petition is directed against the
following order :-

27th 21/9/22

(AII)

Order contained in Memo No.H/P Jeora - Hardoi, dated 15.12.1989, passed by Superintendent of Post Offices, Hardoi Division, Hardoi-241001, cancelling the order of appointment of applicant-petitioner Rajesh Baboo on the post E.D.A. (Extra Departmental Mail Carrier) i.e. E.D.M.C. Jeora E.D.P.O. in account with Pali S.O. Memo No.A/Jeora dated 23.5.1988. The true photostat copy of Superintendent Post Offices, Hardoi is Annexure A-1 and the letter and order dated 7.12.1989 issued from Office of D.P.S. referred to in Annexure No.A-1 is annexed as Annexure No.A-2.

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which the redress and relief is being sought is within the jurisdiction of this Tribunal.

5. Limitation :

The applicant further declares that this application is being filed and moved within the period of limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985, from the date of Order of Superintendent P.O.Hardoi, passed on 15.12.1989, cancelling applicant's appointment.

27/12/1989

6. Facts of the case:

The facts of the case are stated hereinafter :-

(a) That vide order of appointment dated 23.5.1988 (Memo No.A/Jeora- Hardoi- 23.5.88, the applicant-petitioner was appointed E.D.A. (Extra Departmental) Mail Carrier E.D.M.C.Jeora. The order of appointment had been issued under the signatures of Sub-Divisional Inspector (P), North Sub-Division, Hardoi. The true photostat copy of letter/order of appointment is being annexed herewith as Annexure No.A-3 to this petition.

(b) That since after the petitioner's appointment as E.D.M.C. Jeora vide order dated 23.5.1988, the applicant is and has been working as such E.D.M.C.Jeora in relation to Sub-Post Office, Pali, Hardoi.

✓(c) That it may be stated that the applicant is and has been permanent resident of Pali as stated above wherefrom the mails originates for 'Jeora' i.e. Delivery Jurisdiction of Sub-Post Office Pali, Hardoi.

(d) That applicant having come to know from reliable sources that the Superintendent Offices, Hardoi, opposite party no.1 vide order dated 15.12.1989 has cancelled the

applicant's appointment from the Post of E.D.M.C. Jeora in pursuance of certain orders of D.P. Services, Lucknow. The applicant received a copy of the order of the Superintendent of Post Offices dated 15.12.1989 from S.D.O. Office at Hardoi, the photostat/true copy of which is Annexure No.A-1 to this petition.

(e) That the petitioner inspite of best efforts could not get the copy of the Director of Postal Services Order referred to in the Order of Superintendent's Annexure No.A-1 but could only get a true copy of the letter No.R.D.L./S.T.A./ C-34/88/3 dated 7.12.1989 issued from the Office of Director of Postal Services, Lucknow Region, Lucknow to Superintendent of Post Offices, Hardoi (D.N.) Hardoi. The true copy of the same is being annexed herewith as Annexure No.A-2.

(f) That in Section II under Head Method of Recruitment under para 5(ii) bearing residence, it has been provided "E.D.Mail Carriers, runners and Mail peons should reside in the Station of Main Post Office or Station wherefrom mails originate/terminate i.e. they should be permanent residents of the delivery jurisdiction of the post".

(g) That the petitioner is as well as has been permanent resident of Mohalla Safi Sarai, Village Pali, Hardoi, where Sub-Post Office Pali from the Mails originate for distribution and delivery in Jeora - Hardoi since his birth and has been otherwise qualified as well;

(h) That the petitioner as has been advised to state believing the advice to be correct submits that Extra Departmental Agent is not the Casual worker but he holds the Civil Post under the control of the State i.e. Union of India in view of law laid down by the Hon'ble Supreme Court of India in the case of Superintendent Post Offices. Vs. P.K.Raj Jamuna, reported in A.I.R. 1977 S.C. 1677.

(i) That the petitioner has been advised to state that the opposite parties no.1 or 5 had no authority to review, re-consider and cancel or to set-aside the order of appointment dated 23.5.1988 contained in Annexure No.A-3 in view well settled principles of law to the effect the once a person has been appointed and he has taken over charge and worked for good many days, the appointing authority is not entitled to cancel the order of appointment.

(j) That the expatiation orders contained in Annexure

27th Dec 1997

No. A-1 or A-2 are illegal and not covered by Rule 6 E.D. Rules and opposite party no. 1 or 5 had no right to pass order of cancellation of appointment as the said order is illegal, null and void as when a power to be given to a specified authority none else can exercise the same so none except appointing authority can exercise the power referred to in Rule 6.

(k) That it has been the well settled and laid down by the Supreme Court as well as the High Court of Uttar Pradesh in the cases reported in 1964 S.C. 806, and 1984 (2) L.C.D. 243 Govind Saran Vs. Union of India, that if an Extra Departmental Agent has been appointed after selection and he has worked for long period (as in the present case of about eighteen months) the person acquires a right to continue in service unless the same was terminated in accordance with Service Rules and material directions issued by the D.G.P.T. and competent authorities under those rules, on the grounds physical, or mental unsuitability or unfitness or unsatisfactory work or the like or an abolition of post and no alternative post being available and his appointment is not liable to be cancelled as sweat will and arbitrarily or the fault irregularity of authorities themselves and the E.D.A. could

(A14)

not thus be put off duty the petitioner has been advised to state and believing the advice to be correct the petitioner does so state. The petitioner further state orders contained in Annexures No. A-1 and A-2 to be illegal, null and void and liable to be quashed being prejudicial to petitioner as well as on account of their tendency to cause substantial injury to the petitioner.

7. Details of remedies if exhausted or available :

The petitioner further declares on the basis of legal advice which petitioner believes to be correct, that no remedy is or has been available to petitioner against order contained in Annexure No/1 or Annexure A-2 under E.D.A. Conduct and Services Rule, 1964 as the orders impugned are not covered by any of the 'Rules' contained in E.D.Service Rules and as such no appeal or revision did ~~pay~~ to any authority from order of cancellation of order of appointment passed after the E.D.A. had taken over charge of the post on the basis of order of appointment and worked for good long period.

8. Matters not previously filed or pending :

That no proceeding has been taken nor any application, suit or writ petition had been

21st Aug 2012

previously instituted or filed by the petitioner/applicant before any court or Bench of Tribunal or authority, regarding the subject matter in respect of which this petition/application is being made before this Hon'ble Bench of the Central Administrative Tribunal.

9. Relief sought :

That in view of the allegations, facts mentioned in para 6 of this application/petition, the applicant/petitioner prays for the following reliefs :-

(a) That this Hon'ble Tribunal may kindly be pleased to hold and declare orders dated 15.12.1989 Annexure No.A-1 passed by Supdt. Post Offices, Hardoi, cancelling the order of applicant's appointment as E.D.M.C. dated 23.5.1988) as well letter/order dated 7.12.1989 of Office D.P.S.Lucknow, Annexure No.A-2 to be illegal and void and inoperative on account of its being without jurisdiction and the same being arbitrary and the result of violation of Principles of Natural Justice as explained in para 6 (h)(i) (j) (k) and being hit by Article 14 and 16 of the Constitution.

(b) To set aside and quash order Annexure No.A-1

21-9-1989

and Annexure No.A-2 as the same ~~was~~ ^{are} without jurisdiction on ground and principles referred to in para 6(h), 6(i), 6(j) and 6(k) of this application..

(c) to issue the order and direction to opposite parties in the nature of Mandamus or mandatory injunction directing them to allow the petitioner to continue to work as E.D.M.C. Jeora, Hardoi and not to cause any illegal interference or obstruction with the petitioner/applicant's working as such-(Ground)-as the orders impugned are illegal, null and void and are not covered by any of the provisions of E.D.Service Rules, 1964 and petitioner has got a right to work and act as E.D.A.M.C. under appointment order Annexure No.A-3 to the application.

(d) to allow the petition with costs.

(e) to issue such further and other order as this Hon'ble Tribunal deems just, fit and proper under the Act.

10. Interim relief prayed for :

That the charge of post E.D.A. M.C. is yet with the applicant and it is prayed that this Hon'ble Tribunal be pleased to issue

21/21/2007

an interim order of stay and injunction, staying the implementation of Superintendent's of Post Offices, Hardoi's order dated 15.12.1989 as well as direct the opposite parties not to interfere in any manner with applicant's functioning as E.D. Agent Mail Carrier, Jeora, Hardoi, pending the final decision of this claim petition by this Hon'ble Tribunal otherwise the applicant will be subjected to irreparable loss and injury.

11. This petition is being presented and filed by applicant through his counsel whose power i.e. Vakalatnama is being enclosed herewith separately with this petition and who will appear and argue the matter at admission and final hearing stage if and when required to urge.
12. That application fee of Rs.50/- is being paid by Bank Draft/Postal Order, the particulars of which are as under :-(**02 00**
(a) No. of Postal order : 02412908
(b) Name of Issuing Post Office: - *Post office Amulabaparki*
(c) Date of issue of Postal Order: 28.12.1989
(d) Post Office at which payable:

13. List of Enclosures:

- (1) Annexure No.A-1 i.e. Copy of Supdt. of Post Office- Hardoi D.N.Hardoi, dated 15.12.89.
- (2) Annexure No.A-2 i.e. copy of letter dated 7.12.89 issued by D.P.C.Lucknow Range, Lucknow to

ZTent 21-4/192

Superintendent Post Offices, Hardoi.

(3) Annexure No.A-3 i.e. copy of letter/order dated 23.5.88 of appointment of applicant as E.D.D.A./ M.C. Jeora, Hardoi.

(4) Postal Order for Rs.50/- issued by Post Office.

Verification.

I, Rajesh Baboo, aged about 24 years, son of Sri Nankau Singh, working as E.D.M.C.Jeora, Hardoi, resident of Mohalla Safai Sarai, Pali, Sub-P.O.Pali, Distt. Hardoi, do hereby verify the contents of paras 1, 2, 3, 6(a),(b),(c), (d),(e), (f), 8, 9, 10, 11, 12 and 13 of this application to be true to my personal knowledge and those of paras 4, 5, 6(h),(i), (j), (k) and 7 of this application are believed by me to be true on the basis of legal advise and that I have not suppressed nor concealed any material or relevant fact to the best of my knowledge and belief.

Dated: 28.12.89

28/12/89
A P P L I C A N T.

Place: Lucknow.

Atan Nath Silbers
Advocate.
Counsel for the applicant.

1423

Government of India
Department of Posts

O/O Supdt. of Post offices Hardoi Dn. Hardoi-241001

Memo No. N/R-Jeora
Dated at Hardoi, the 15.12.89

In compliance to order contained in DPS Lucknow Region Lucknow, letter no. RDL/STA/C-34/88/3 dated 7.12.89 appointment of Shri Rakesh Baboo S/O Shri Nankoo Singh x/o village &PO-Pali(Hardoi) on the post of EDDA/EIMC Jeora EDBO in account with Pali S.O. as ordered vide SDI(P) North Sub Dn. Hardoi memo no. A/Jeora dated 23.5.88 is hereby cancelled, with immediate effect under Rule 6 of P.T. EDA (Conduct & Service) Rules of 1964. ✓ 15/12/

Supdt. of Post Offices
Hardoi Dn. Hardoi-241001

Copy to:-

1. SDI(P) North (Hardoi). He will please get Shri Rakesh Baboo relieved from the ^{change} EDDA/EIMC Jeora immediately by engaging some suitable persons purely as a temporary measure in staff-gap arrangement vice him on the responsibility of any deptl. official on the clear understanding that the person so engaged temporarily will have no claim for his regular absorption in the department, in that his services can be terminated at any time without any prior notice. Written undertaking to this effect from the person temporarily so engaged as EDDA/EIMC Jeora alongwith letter of responsibility from any deptl. official for him along with charge reports of relief of Shri Rakesh Baboo & ^{report} engaging any person temporarily all duly attested by you be sent to this office with your ^{report} within three days positively. Orders for regular appointment on this post will be issued in due course.

✓ 2. Shri Rakesh Baboo S/O Shri Nankoo Singh.

3. EDSPM Jeora.

4. P.M. Hardoi.

5-6. O/C & Spare.

*P.R.YADAV*09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALAHABAD BENCH
Sitting at Lucknow

13

(A24)

Rakesh Baboo

Appellant

13

Supdt. of Post Office and on
ANNUAL NO. I ^{opp. parties}

Government of India
Department of Posts

O/O Supdt. of Post Offices Hardoi Dn. Hardoi-241001

Memo No. H/R-Jeora
Dated at Hardoi, the 15.12.89

In compliance to order contained in DPS Lucknow
Region Lucknow letter no. RDL/STA/C-34/88/3 dated 7.12.89
appointment of Shri Rakesh Baboo S/O Shri Nankoo Singh
r/o village & PO-Pali(Hardoi) on the post of EDDA/EIMC
Jeora KDBO in account with Pali S.O. as ordered vide
SDI(P) North Sub Dn. Hardoi memo no. A/Jeora dated 23.5.88
is hereby cancelled, with immediate effect under Rule 6
of P.T. CDA (Conduct & Service) Rules of 1964.

Supdt. of Post Offices
Hardoi Dn. Hardoi-241001

Copy to:-

1. SDI(P) North (Hardoi). He will please get Shri Rakesh
Baboo relieved from the ^{change of} EDDA/EIMC Jeora immediate-
ly by engaging some suitable persons purely as
a temporary measure in staff gap arrangement vice
him on the responsibility of any deptl. official
on the clear understanding that the person so
engaged temporarily will have no claim for his
regular absorption in the department. In that his
services can be terminated at any time without any prior
notice, written undertaking to this effect from the person
temporarily so engaged as EDDA/EIMC Jeora alongwith letter
of responsibility from any deptl. official for him along
with char. e reports of relief of Shri Rakesh Baboo & ^{before}
engaging any person temporarily all duly attested by you
be sent to this office with you, within three days positi-
vely. Orders for regular appointment on this post will be
issued in due course.

2. Shri Rakesh Baboo S/O Shri Nankoo Singh.

3. EDDA Jeora.

4. P.M. Hardoi.

5-6. O/C & Sp. re.

*P. R. XAV/IV/19

True Copy

Sajay Verma

27/12/1992

इन दि सैन्दूल एडमिनिस्ट्रैटिव ट्रिब्युनल, इलाहाबाद बैन्ड
सिटिंग स्ट लखनऊ

क्लैम पिटीशन नं०

आफ 1989-90

श्रीरामेश बाबू -

पिटीशनर

बनाम

सुपरिन्टेंडेंट आफ पौस्ट आफिस हरदोह -

अपो०पाटी

अनेकजर नं० ३४

सेवा मूँ,

अधीक्षक, डाकघर,
हरदोह मण्डल,
हरदोह ।

पत्रांक- आरडीएल/सस्टीए/सी-34/88/3 दिनांक 7-12-1989

विषय

₹०८००८० ज्युरा की नियुक्ति का मामला

संदर्भ- आपका पत्रांक एच०/पी-ज्यूरा/89, दिनांक 24-4-1989

₹०८००८० ज्युरा हरदोह पद पर नियुक्ति सम्बन्धी पत्रावली जांच करने पर पाया गया कि निरीक्षक ने ₹०८०८०पी० ज्यूरा की नियुक्ति हेतु सेवायोजन कार्यालय की जो पत्र 16-3-1988 को लिखा था उसमें यही उद्धत था कि अभ्यर्थी ज्युरा ग्राम का ज्युरा डाकघर में सम्मिलित होने वाले ग्रामों का ही निवासी हो । इस प्रकार से पाली ग्राम (लेखा कार्यालय) के निवासियों का प्रार्थना पत्र न तो सेवायोजन कार्यालय को अंगू भेजना चाहिए था और यदि प्राप्त हुआ भी तो उस पर निरीक्षक की विचार करने का कोहं औचित्य नहीं था यदि निरीक्षक को पाली निवासी की नियुक्ति ही करना था तो सेवायोजन कार्यालय के लिये पत्र दिनांक 16-3-1988 में यह स्पष्ट रूप से लिखा चाहिए था कि पाली (लेखा कार्यालय) या ज्युरा एवं ज्यूरा ग्राम में सम्मिलित ग्रामों का निवासी ही तथा पाली के निवासी को वरीयता दी जायगी क्योंकि डाक घर उदगम स्थान पाली ही है । ऐसा न करने के कारण शिकायत में लाये गये आरोप में सत्यता की आभास होता है ।

A26

-2-

उपरोक्त तथ्यों के अध्यान में रखते हुए निदेशक महोदय ने निरीक्षक छारा की गयी नियुक्ति को निरस्त करने का आदेश पारित किया है और आपको निर्देशित किया जाता है कि अन्य अध्यर्थीयों में से सबसे सुयोग्य अध्यर्थी की नियुक्ति करने पर विचार करे और परिणाम से इस कार्यालय को भी अवगत कराए। आपके संदर्भित पत्र छारा भेजी गयी नियुक्ति पत्रावली ज्यों को त्यौं वापस लौटायी जाती है। कृपया पावती स्वीकार करें।

संलग्नक-(उक्त)

(सील) ह०-अस्पष्ट,

कृति निदेशक डाक,
सेवाएं लखनऊ दौत्र, लखनऊ

सत्य प्रतिलिपि

True Copy
Sarayu (A)

IN THE CONTRACT ADMINISTRATIVE TRIBUNAL

ALCAHABAQ BENCH

Sitting at Lucknow

(P6)

(A21)

Rakesh Bahadur

Attendant

V3

Supdt of Post office and on
Annexure No. III. off parties

ORDER of Appointment

No. H.I. Tiers..... Dated at Hardwar 23/7/68.

Shri..... Rakesh Bahadur Nankoo Singh..... is hereby
appoint as ED of P.T. C.M.C. with effect from 1st Aug. 1968
forenoon/afternoon. He shall be paid such allowance as are
admissible from time to time.

2. Shri Rakesh Bahadur should clearly understand that
his employment as ED of P.T. C.M.C. shall be in the nature of a
contract liable to be terminated by him or by the undersigned
by notifying the other in writing and that he shall also be
governed by the Post and Telegraphs Extra-Departmental Agent
(Conduct and Service) Rules, 1964, as amended from time to
time. ~~His appointment is subject to his acceptance.~~

3. If these conditions are acceptable to him, he should
communicate his acceptance in the enclosed pro forma.

(Appointing Authority)

Shri Rakesh Bahadur

S/o. Son. Nankoo Singh

110 Mah Sarai Saf

Distr. Hardwar

2. Postmaster Hardwar

3. Mail off Shahabad, He will
be get in charge load to
S/o Rakesh Bahadur after observing
all the formalities of appointment
i.e. descriptive particulars, Bond
health certificate etc.

4. O/C & Spare

*P.R. Yadav/220488

True copy
S. S. S. (S. S. S.)

21/7/2017

वकालतनामा

माननीय उच्च न्यायालय उत्तर प्रदेश
इलाहाबाद-लखनऊ



या

न्यायालय श्रीमान् माननीय केन्द्रीय प्रशासनकान्यायाधिकारा (C.A.T)
प्रमाणपत्र अधीन, रिट/वाचिका/स्ट्रीन
मिस्ट्री/आवेदन पत्र/लेखनका/प्रक्रीया संख्या सन् १९

(इलाहाबाद वेंच)
स्ट्रीवेंच लखनऊ

राजेश वाल
प्रति प्रतिवाद/विपक्षी/प्रतिवादवाता
सुप्रीनेन्टेंटपोस्टमार्केज इटेंट इलाहाबाद १८ उत्तरात
तिथि पंचमी

उपर्युक्त बाद में, मैं/हम अपवी ओर से श्री हरीनाथ मोतीलाल तिलहरी एडवोकेट
१६२/४२, अस्तवल चारबाग लखनऊ

तथा श्री ईश्वर मोतीलाल एडवोकेट,

को अपना अधिवक्ता नियुक्त करके प्रतिबन्ध करता हूँ/करते हैं कि आपको अधिकार है कि आप उपर्युक्त मुकदमे में हमारी ओर से स्वयम् अथवा अन्य वकील द्वारा पेरवी व प्रश्नोत्तर व जवाब व धहस करें, सर्व प्रकार के बाद पत्र, अर्जी दावा व लिखित उत्तर सर्व प्रकार के प्रायना पत्र, निष्पादन पत्र व अन्य प्रकार की पत्रावली, दस्तावेज व अन्न लेख व दस्तावेज व कागज अपने हस्ताक्षर से हमारी ओर से प्रस्तुत करें व वापस लेवें, पंच नियुक्त करें व पचनामा व पंच निर्णय के विरोध में कारण उपस्थित करें। अपने या हमारे हस्ताक्षरों से हमारी ओर से सुलहनामा स्वीकृति पत्र उपस्थित करें एवं दावा स्वीकार करें या उठावें, डिग्री हो जाने पर उसे कार्य रूप में परिणिन करावें व डिग्री का संपत्ता व तत्सम्बन्धी व्यय या अन्य कोई धन जो मुझे/हमें प्राप्त होने को हो अपने हस्ताक्षरों वे हमारी ओर से प्राप्त करें, हमारी ओर से इ० जमा करें मेरे/हमारे या विपक्षी द्वारा जमा किया ह० अपने या हमारे हस्ताक्षरयुक्त रसीद लेवें। कोटंकीस, स्टाम्प बाजाना व अन्य खर्च दाखिल करें व वापस लेवें व रसीद देवें और नकल लेवें मुकदमे की पत्रावली का निरीक्षण करें, मुकदमा पुनरीक्षण स्थगित करावें। रिट, अपील, बाद, चुनाव याचिका या अन्व योई भी प्रार्थना पत्र स्वहस्ताक्षरों से किसी भी न्यायालय, दीवानी, फोजदारी, माल उच्च न्यायालय, ट्रिब्युनल, प्राधिकारी (इनकम टैक्स, सेल टैक्स व सर्व प्रकार के अन्य) आदि हमारी ओर से प्रस्तुत करें व तसदीक करें। आय व्यय का रिटन प्रस्तुत करें व शपथ पत्र उपस्थित करें या मेरी/हमारी ओर से मौखिक बयान दें। मुकदमे में गवाह तलब करावें, अपनी ओर से कोई अन्व वकील नियुक्त करके मुकदमे की सब कार्यबाही करावें व उक्त मुकदमा सम्बन्धी जो अन्य आवश्यक कार्य ही करें।

मैं/हम उक्त वकील साहब को उनका शुल्क निश्चित करने के पश्चात उपरोक्त अधिकार देते हुए अपना वकील नियुक्त करता हूँ/करते हैं और इकरार करता हूँ/करते हैं कि जो कुछ भी कार्यवाही अधिवक्ता महोदय इस मुकदमे के सम्बन्ध में करेंगे मुझे/हमें स्वीकार है और होगी और वह मेरी/हमारा किया हुआ समझा जावेगा मैं/हम यह भी प्रतिबन्ध करता हूँ/करते हैं कि मुकदमे के रौरान जो भी परिव्यय मुकदमे को स्थगित करने या बाद पत्र अथवा लिखित उत्तर में संशोधन करवाने के कारण या अन्य किसी कारण से न्यायालय, प्राधिकारी, ट्रिब्युनल आदि द्वारा मेरे विपक्षी को, मुझे/हमें देने की, आज्ञा दी जायगी वह सब परिव्यय आय अधिवक्ता महोदय पाने व स्वयं रखने के अधिकारी होगे। यदि मेरी/हमारी अथवा मेरी/हमारे वकील को गैर मौजूदगी में कोई हुक्म मेरे/हमारे विरुद्ध हो जाय तो उसकी कोई जिम्मेदारी अधिवक्ता पर नहीं होगी। यदि मैं/हम अधिवक्ता महोदय का निश्चित शुल्क न देवें तो उन्हें पूर्ण अधिकार है कि वे हमारे मुकदमे की पेरवी न करें और उनके द्वारा ऐसा करने पर वह किसी भी प्रकार के हर्जी खर्च के जिम्मेदार नहीं होगे।

हस्ताक्षर राजेश वाल

दिनांक.....

साक्षी.....

accepted

Sanjay Verma
(Adv.)

राजेश वाल
advocate

(हरीनाथ मोतीलाल तिलहरी)

एडवोकेट

(A29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

COUNTER AFFIDAVIT ON BEHALF OF ALL THE RESPONDENTS :

IN.

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

Rajesh Babu Applicant.

Versus.

Union of India & Others Respondents.

I, R.S. Khusro, aged about 58 years, son of
S. Ram Chandra, Supdt. of Post Offices, Hardoi,
do hereby solemnly affirm and state as under :-

1. That the deponent is competent to swear this affidavit on behalf of all the respondents.
2. That the deponent has read the application filed by Shri Rajesh Babu and has understood the contents thereof.
3. That the deponent is well conversant with the facts of the case deposed hereinafter.
4. That it will be worthwhile to give a brief history of the case to enable the Hon'ble Tribunal to appreciate the submissions made in reply to the paras of the application.

*S. R. Khusro
29/1/90*

BRIEF HISTORY OF THE CASE

consequent upon the creation of the posts of Extra Departmental Delivery Agent cum-Extra Departmental Mail Carrier (hereinafter referred to as EDDA cum-EDMC) in newly sanctioned Extra Departmental

contd. 2....

DCW

A.P.O

Branch post office, Jeora, a requisition was sent to Employment Exchange, Hardoi by the sub divisional Inspector of Post Offices (North) Hardoi ~~to sponsor~~ vide his letter No. A/Jeora dated 16.3.1988 to obtain applications ~~for~~ suitable candidates of village Jeora or the villages served by the ED Branch post office, Jeora for appointment to the said post. A photostat copy of the letter to the Employment Exchange is being filed as Annexure R-1. It may, however, be clarified that in this letter applications from candidates who were residents of village Pali were not invited.

Five applications were received from the Employment Exchange Hardoi vice letter No. PO 803/88 dated 20.4.1988, out of which four applications were from the candidates who were residents of village and post office Jeora ~~on~~ who were residents of villages situated under the delivery zone of Jeora Branch post office and one application was from the applicant who was the resident of Village & Post office Pali.

The applicant was appointed as EDDA/EDMC in Jeora ED Branch post office on 23.5.88 (Annexure-III) of the application). The appointment of the applicant was reviewed by the Director Postal Services, Lucknow and the same was set aside by him with the direction to appoint the most suitable candidate from amongst the candidates sponsored by the Employment Exchange other than the applicant. The Director Postal Services had also observed that the Employment Exchange should not have forwarded the application of the candidate belonging to Village Pali and if such an application was forwarded, the same should not have been considered for appointment.

In compliance to the above orders, the appoint-

contd. 3...

A.C. 1/



(A31)

ment of the applicant was cancelled by the deponent vide memo dated 15.12.1989 but the same could not be served upon the applicant as he had proceeded on leave without prior permission.

In this connection it is pertinent to point out that Pali Post Office has its own delivery jurisdiction and the Jeora Branch Post Office does not fall under the delivery jurisdiction of Pali Post Office. Jeora Post Office has its own & separate delivery jurisdiction consisting of villages attached to it for postal delivery purposes.

PRELIMINARY OBJECTION

The applicant has not exhausted the departmental remedies available to him before coming to this Hon'ble Tribunal for relief. As such, this petition is liable to be dismissed under Sec. 20(i) of the Central Administrative Tribunal Act, of 1985.

PARA - WISE COMMENTS



5. That the contents of paras 1 to 5 need no comments.
6. That the contents of para 6 (a) are admitted.
7. That in reply to the contents of para 6 (b) it is submitted that the applicant was appointed as EDDA cum-~~ED~~ EDMC. He was not only functioning as ED Mail Carrier but he was also performing the duties of E.D. Delivery Agent of the delivery jurisdiction of Jeora Post office.
8. That in reply to the contents of para 6 (c) it is submitted that Jeora does not fall within the delivery jurisdiction of Pali Post office.

(X32)

-: 4 :-

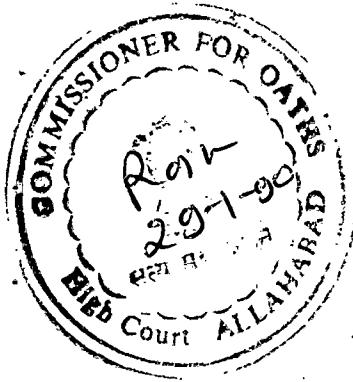
9. That the contents of para 6 (d) are admitted to the extent that the appointment of the applicant was set aside by the Director Postal Services, Lucknow and in pursuance of thereof the appointment of the applicant was cancelled by the Deponent. Rest of the contents need no comments.

10. That the contents of para 6 (e) need no comments.

11. That in reply to the content of para 6 (f) and 6 (g) it is submitted that to be eligible for appointment to the post of EDMC, the candidate should ~~max~~ be permanent resident of the delivery jurisdiction of the concerned post office and for an ED Agent in this categories he should, as far as possible, reside in or near the place of their work. In the present case, the applicant is not the resident of Village Jeora or of any other village under the delivery jurisdiction of Jeora post office. It was mentioned in the letter addressed to the Employment Exchange calling for applications for the appointment to the post of EDDA-CUM-EDMC that the candidates shall be resident of Village Jeora or of the villages falling under the delivery jurisdiction of Jeora post office.

12. That the contents of para 6 (h) need no comments.

13. That in reply to para 6 (i) to 6 (k) it is submitted that the employment of the applicant was in the nature of a contract and it was ~~max~~ clearly indicated that "he shall also be governed by the Posts and Telegraphs Extra Departmental Agent (conduct and Service) Rules, 1964". Under the said rules the Director Postal Services, Lucknow is empowered to review the appointment cases and set aside any appointment which has been made in ^{violation} ~~motivations~~ of the rules



R.C.R.

..... 5..

(R.S.)

and departmental instructions. In the present case the appointment of the applicant has been cancelled under Rules 6 of the P & T EDA (Conduct and Service) Rules 1964 on grounds un-connected with his conduct.

14. That in reply to para 7 of the application it is submitted that the applicant has not exhausted all the departmental remedies available to him to ventilate his grievance before filing the case before this Hon'ble Tribunal. As such this petition is liable to be dismissed under Sec. 20(i) of the Central Administrative Tribunal Act of 1985.
15. That the contents of para 8 need no comments.
16. That in reply to the contents of paras 9 and 10 it is submitted that in view of the submissions made in the above paragraphs, the relief sought in para 9 and interim relief prayed for in para 10 of the application are not tenable in facts and law and the same are liable to be rejected. The petition is, therefore, liable to be dismissed with costs.
17. That the contents of para 11 to 13 need no comments.

Lucknow ;

Dated : 29/1/90

R.S.
(R. S. KHUSRO)

Deponent.

Verification

I, the above named deponent do hereby verify that the contents of paras 1-3 of this Counter Affidavit are true to the best of my knowledge and those of paras 4 & 14 are believed by me to be true based on records and as per legal advise of my counsel. (Para 17)

(A34)

That no part of it is false and nothing material facts have been concealed, so help me God.

Signed and verified this the 29 day of January 1990 within the court compound at Lucknow.

Lucknow :

Dated : 29/1/90

Rafiq
(R.S. KHUSRO)
Deponent.

I identify the deponent who has signed before me. *Parvez Khan*

D. Chaudhary
Advocate.

solemnly affirmed by the deponent on 29-1-90 at 3.30 p.m. who has been identified by *Dr. D. M. Khan* Advocate, High Court of Lucknow Bench.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained to him by me.



R. M. Khan
Registrar
High Commission
High Court, Allahabad
Lucknow Bench

No. 61175
Date 29-1-90

In the Central Administrative Tribunal at Lucknow

Circuit Bench Lucknow

Case No. 356 of 1989 (3)

(A36)

सारकोव डाक-तार विभाग
INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Rajesh Bahl v. Union of India and others

From

ANNEXURE - R-1

प्रसार देते समय कुपारा
निम्न उम्मीदे
In reply
Please quote

दिनांक
To The Employment Office
Haridwar - 241001

क्रम संख्या
No. A1/Year

Dated at Haridwar on the 16/3/89

विषय

SUBJECT

Appointment of the post of D.D.A.C.C.U.
B.D.M.C. Yeara (Pali) Distt. Haridwar.

Dear Sir,

You are hereby requested
kindly to allow applications
from suitable candidates of village
Yeara (Pali) or the villages served
by B.O. Yeara in accordance with P.M.
G.S. List Haridwar for the appointment
of B.O. Departmental Delivery Agents
under B.O. Departmental Mail Carriers
for the newly sanctioned B.D.M.C. Yeara
and forward them to this office

Latest by 15-4-88. The conditions
for eligibility of the candidates and
the list of the villages to be
served by the B.O. are given in
the enclosed annexure.

Applications may also be
obtained from eligible candidates
from the post office Yeara or
the office of the B.O. Haridwar
or the concerned post office
and suitable documents may be
submitted along with the application.

Yours very truly,

Ran
20/3/89

With Compt. Seal

820

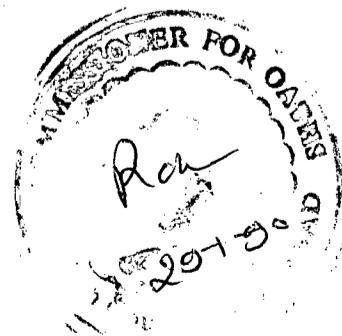
List of the Villages to be
Served by Jeera B/o in
accordance with Pali Si

2C

1. Jeera
2. Jhara
3. Bchla
4. Bchli
5. Murapu
6. Lhiamraha
7. Gazianpu
8. Adnapeu
9. Arohra
10. Lantsaha

Mail Arrangement

1. K.M. 11.6.



(X37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

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



Rakesh Babu

Applicant.

Versus.

Union of India and others.

Respondent.

Rejoinder Affidavit.

P.T.
213

I, Rakesh Babu aged about 24 years resident of village and Post Office Pali Mohalla Saif Sarai district Hardoi, do hereby solemnly affirm and state as under:-

1. That the deponent has read over the Counter affidavit and has got the same explained and has understood the contents thereof.

2. That the allegations of paras 1 to 3 of the counter affidavit need no comments.

3(a).

That the allegations of para 4 of counter affidavit are not admitted as correct.

(b).

Pali and ~~personat~~ ~~of~~ persual of Annexure No. R-I to the Counter Affidavit it self indicate. It is further stated that Annexure no. R-I further disclose that in it is stated " you are hereby requested to obtain applications from Jeora, Pali or the village served by B.O. Jeora in the account of Pali Sub District Hardoi", and this persee indicatiers that the delivery jurisdiction of Main post office Pali Sub Division includes Jeora and pali both as ~~to~~ ~~well~~ well as the village in mentioned in the list of B.O. Jeora working in account of Sub Post Office Pali Distt. Hardoi and as such it is false and in correct allegation to say candidates ~~resident~~ of Pali were not invited.

(c). It is further asserted the Jeora and pali the delivery area in delivery jurisdiction of ~~Sub~~ Sub Post Office Pali Hardoi,

(d). It is further submitted as advised that ~~the~~ director of postal services Lucknow acted in excess of jurisdiction in reviewing the appointment of deponent cancelling the same as has been stated earlier as well It is further stated that order dated 15.12.89 has been illegal and void and without jurisdiction and in violation of principles of natural justice. It may also be stated that Jeora is not the main post office but a branch office.

(e). The deponent as advised by his counsel ~~desi~~



21 Dec 1992

denied the ~~plea~~ of bar on the ground of any alternative remedy. The deponent states that to the best deponents knowledge and information based on legal advise there is no alternative remedy available.

4. That the allegations of para 5 and 6 need no reply.

5. That in view of Annexure no. 3 to claim petition the appointment letter dated 23.5.88 it is stated that deponent of appointed E.D.D.A. cum E.D.M.C. anything to the contrary is not admitted.

6. That allegation of para 8 of the counter affidavit are denied. It may be stated that Jeora Branch Office falls in account of Pali Sub Division Post Office.

7. That allegation of para 9, need no comment except that it may be stated as advised that the order of cancellation of deponent's appointment passed by O.P. no. 1, as well as director of postal services is illegal null and void and is in violation of natural justice.

8. That the allegation of para 10 of Counter Affidavit need no reply.

9. That the allegation of para 11 are denied as drafted, It may be stated the Jeora falls in account and delivery jurisdiction of Main Post office i.e. Sub Post Office ^{at} Pali from where the mail for Jeora



AO

-4-

and as such Pali is in territorial jurisdiction
of main Post Office, Pali.

10. That allegations of para 12 of counter affidavit need no reply.

11. That the allegation of para 13 are denied.

12. That the allegation of paras 14 and 16 of counter affidavit are denied. The allegation of para 14 are vague.

13. That the allegations of paras 15 and 17 need no reply.

Lucknow dated:-

March 2, 1990.

21/3/90
Deponent.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 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I, identify the deponent who has signed before me.

Om Prakash
Clerk of Sri Hari Nath Tilhari
Advocate.

Solemnly affirmed by the deponent on 23-3-80

at 10.55 a.m./p.m. who has been identified

by Om Prakash Clerk of Sri Hari Nath Tilhari,
Advocate, High Court of Lucknow Bench.

I have satisfied myself by examining the deponent that
he understands the contents of this affidavit which
have been read over and explained to him by me.

Harikesh Sharma (Adv)
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 59102
Date 23-3-80



CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE ... Rev. 337 OF 90

NAME OF THE PARTIES ... Rakesh Babu Applicant

Versus

..... Union of India Respondent

Part A.

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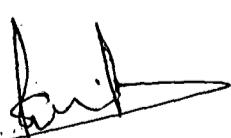
CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Dated ... 17-6-11

Counter Signed.....

Rechecked
on 3/8/12
by


Signature of the
Dealing Assistant

Section Officer/In charge

C. M. Review An. No. 337/90 (L)

in 337

O.A. NO. 356/89 (L)

Serial
number
of
order
and date

Brief Order, Mentioning Reference
if necessary

PL

How complied
with and
date of
compliance

OR

C.M.(Review) An.
No. 337/90 (L) has
been filed in O.A No.
356/89 (L) on.

17-5-90

This case was
decided by the
Bench of Hons.
D. K. Agarwal, S.M.
& Hn. P. S. Habib
Mohammed, A.M.
on 19.4.90

The Author of
judgement is
Hon. D. K. Agarwal
S.M.

Submitted to
Order

17/5

Dinosh/

R2

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.
CIRCUIT BENCH AT LUCKNOW.

Review Application No. 337 of 1990 (L)

On behalf of

Union of India & others Applicants

In

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

Rakesh Baboo Applicants.

Versus

Superintendent of Post Offices,
Hardoi Division, Hardoi & others Respondents.

Hon'ble D.K. Agrawal, J.M.
Hon'ble P.S. Habeeb Mohammad, A.M.

(By Hon. D.K. Agrawal, J.M.)

This review application, filed under Section 22(3)(f) of the Administrative Tribunals Act, 1985, is against the judgment and order dated 19.4.1990 passed in O.A. No. 356 of 1989 (L), Rakesh Baboo v. Superintendent of Post Offices, Hardoi Division, Hardoi & others, and has come before us for decision on circulation.

2. We have gone through the review application. By means of this application the review-applicants have urged that this Tribunal has erred and the order dated 19.4.1990 passed in O.A. No. 356 of 1989 (L) be reviewed and recalled.

3. A review of an order can only be made for correction of a patent error of fact or law which stares one in the face without any elaborate arguments being needed for establishing it. Thus the scope for reviewing an order is limited.

4. Since there is no patent error of fact or law in the order passed on 19.4.1990, the review application, in our opinion, is liable to be rejected and is accordingly rejected.

MEMBER (A).

Dated: October Dec 3rd, 1990.

DK 3.12.90
MEMBER (J).

A3

In the Hon'ble Central Administrative Tribunal at Allahabad,

Circuit Bench, Lucknow.

Misc. (Review) Application No 3373/1990 (L)

Union of India & Others Applicants.

In

D. A. No. 356 of 1989 (L)

Rakesh Babu Applicant

Versus.

Union of India & Others Respondents.

REVIEW APPLICATION UNDER SECTION 22 (3) (f) OF ADMINISTRATIVE TRIBUNAL

ACT, 1985 READ WITH RULE 17 OF CENTRAL ADMINISTRATIVE TRIBUNAL (PROCEDURE)

RULES, 1987.

Respondent ~~most respectfully~~ most respectfully beg to submit
as under :-

1. That the respondents had filed the Counter Affidavit in the above case indicating the facts and circumstances which are already on record of this Hon'ble Tribunal.
2. That while delivering judgement in the above case, ~~through~~ this Hon'ble Tribunal the ~~impugned order dated 15.12.89~~, allowed the application and quashed the impugned order dated 15.12.89.
It was, however, made clear that the authorities will be at liberty to conduct the regular enquiry and take action if warranted by ~~the~~ Law. The Hon'ble Tribunal also held that the principles of natural justice ~~were~~ violated since no opportunity of hearing was given to the applicant at any stage - either during the course of enquiry or before issuing of orders.

*f.t.
S. S.
17/1/90*

3. That in allowing the petitioner's application some facts & Circumstances of the case indicated in the brief history of the case, para 11, 13 and 14 of the Counter reply have been escaped the notice of this Hon'ble Tribunal; hence this application for review on the following grounds :-

G R O U N D S

(1) Because the appointment of the petitioner as ordered vide Memo No. A/Jeora dated 23.5.1988 was cancelled by the Supdt. of Post Offices Hardoi under Rule 6 of the P & T EDA (Conduct & Service) Rules, 1964 on the grounds unconnected with his conduct. The said order was not penal in nature and therefore, no enquiry was called for before issuing the said order. It has been admitted by the petitioner that he is the resident of Village Pali as ^{admitted} admitted by him in para 6 (c) of the application.

(2) Because the applicant was not eligible for appointment to the post of Extra Departmental Delivery Agent cum-Mail Carrier as he was not the resident of Village Jeora or any of the villages falling under ^{Poldha} the delivery zone of Jeora. To be eligible for the post EDDA-Cum-Mail Carrier, the candidates "should be permanent residents of the delivery Zone of the post office." In the instant case, the applicant was not the resident of Jeora or of any villages falling under the delivery zone of Jeora Post Office.

(3) Because in the letter of appointment dated 23.5.88 it was clearly

AS

indicated that the employment of the petitioner "shall be in the nature of a contract liable to be terminated by him or by the appointing authority by notifying the others in writing and that he shall be also governed by the Posts and Telegraph Extra - Departmental Agent (Conduct & Service) Rule, 1964, as amended from time to time." (Annexure A-III) of the petitione. The letter of appointment was cancelled under Rule 6 of the P & T EDA (Conduct & Service) Rules 1964,. As the termination of the petitioner was not penal in nature but in accordance with the terms and conditions of his employment no enquiry or any show cause notice was necessary before issuing cancellation of the said appointment letter.

(4) Because under Rule 16 of the P & T EDA (Conduct & Service) Rules, 1964, the Director Postal Services, Lucknow was empowered to "review any order made under these rules, re-open the case and after making such enquiry as it considers necessary, may :-

(a) Confirm, modify or set aside the order;

OR

(b) Pass such orders as it deems fit.

(5) Because in accordance with the said rules the Director Postal Services, Lucknow, the appointment of the petitioner was reviewed as a result of which the same was set aside with a direction to appoint some other most suitable candidate from amongst the candidates sponsored by the Employment Exchange.

(6) Because in the present case there has been no denial of natural justice. It has been specifically, not casually, admitted by the petitioner that he is the resident of Village Pali and according to the method of Recruitment for ED Mail Carriers, Runners and Mail Peons, the candidates should reside in the station of the main post office, ~~or~~ stage wherefrom mails originate/terminate. This fact has been explained by introducing the clarification; i.e., they should be permanent residents of the delivery jurisdiction of the post office. The relevant para of Method of Recruitment is reproduced below :-

"4(ii) E. D. Mail Carriers, Runners and Mail Peons should reside in the station of the main post office or stage wherefrom mails originate/terminate i.e. they should be permanent residents of the delivery jurisdiction of the post office.

The main post office in the present case is E.D. Post Office Jeora. It is from Jeora that Mails are taken to Pali and brought from there to Jeora Post office for distribution to the villages falling under the jurisdiction of Jeora Post Office. The applicant is not ~~or~~ the resident of Village Jeora or of any villages falling in the ~~xxix~~ jurisdiction of Jeora Post Office.

7. Because the facts and circumstances of the case as indicated in the above paragraphs, would show that all fairness has been done in issuing the cancellation ~~order~~ of the ~~application~~ dated 23.5.88 of the petitioner's and there has been no breach of natural justice. In this context it will be worthwhile to reproduce the observations of Hon'ble V.R. Krishna Iyer, J. ~~in this regard~~ as under :-

"Natural justice is no unruly horse, no lurking land-mine, nor a judicial cure-all. If fairness is shown by the decision maker to the man proceeded against, the form, features and the fundamentals of each essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be financial nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt - that is the conscience of the matter.

We cannot look at law in the abstract or natural justice as a mere artifact. Nor can we fit into a rigid mould the concept of reasonable opportunity. Every minuscule violation does not spell illegality. If the ~~xxx~~ totality of circumstances satisfies the court that the party visited with adverse order has not suffered from denial of reasonable opportunity the court will decline to be punctilious or fanatical as if the rules of natural justice were sacred scriptures.

(Chairman Board of Mining Examination and Chief Inspector of Mines V. Ram Jee, 1977 SCC (L. & S.) 226).

Wherefore, ~~the~~ in the circumstances it is most respectfully
prayed that this Hon'ble Tribunal be pleased to review the case and :-

filed by Shri Rakesh Babu

(1) to dismiss the petition/with costs.

(2) to issue such other direction or order which the Hon'ble
Tribunal may deem just & proper.

Lucknow :

Dated : 15-5-49.

J. (Signature)

Counsel for the Applicant.

Res. P. D. Malani

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Reserved

Central Administrative Tribunal, Allahabad,
CIRCUIT BENCH LUCKNOW.

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

Rakesh Baboo ... Applicant

Vs.

Superintendent of Post
Offices, Hardoi Division
Hardoi and others Respondents.

Hon. D.K.Agrawal, JM
Hon. P.S. Habeeb Mohammad, AM

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

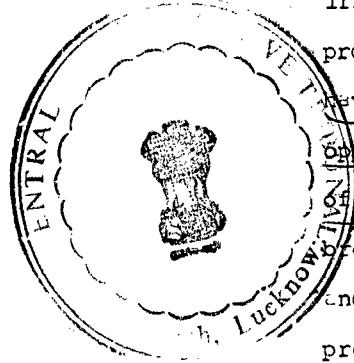
* By means of this Application u/s.19 of the
Administrative Tribunals Act XIII of 1985, the Applicant
has prayed us for issue of writ of certiorari quashing
the order dated 15.12.1989 passed by Superintendent of
Post Offices, Hardoi Division, Hardoi.

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.



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 principles 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).

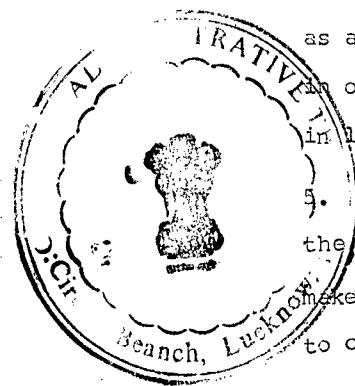
4. Learned counsel for the Respondents urged that since the Applicant was appointed in temporary capacity his services were terminated without assigning any reason and as such, order of termination is valid. We find no substance in this plea. The impugned order dated 15.12.1989 indicates that the Applicant's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

MEMBER (J) 19.4.90.

Dated: April, 1990
kkb

Attested
True COPY

C.T.C.
f *Midanpur*
Deputy Registrar
Central Administrative Tribunal
Lucknow B. n.
Lucknow