

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

O.A.No.918/94.

Date of disposal: 22--7--1997.

Between:

S.V.Ramana Murthy.

.. Applicant

And

1. The Senior Superintendent of Post
Offices, Srikakulam Division, Srikakulam.

2. The Chief Post Master General,
(repg. Union of India),
Hyderabad - 500 001.

3. The Asst. Supdt. of POs.,
Amadalavalasa Sub Division,
Amadalavalasa 532 185. Respondents.

Counsel for the applicant: Sri C.Suryanarayana.

Counsel for the Respondents: Sri N.R.Devaraj.

Coram:

Hon'ble Shri R.Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

JUDGMENT.

(by Hon'ble Sri R. Rangarajan, Member (A)).

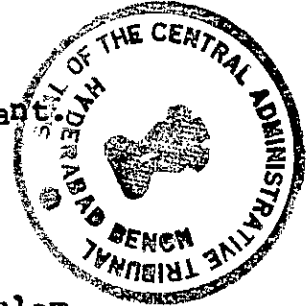
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Heard Sri C.Suryanarayana for the applicant
and Sri N.R.Devaraj for the respondents.

The post of ED-BPM, Shalantri B.O., has fallen
vacant with effect from 30--6--1992 A.N., consequent on
the retirement of the regular incumbent on superannuation.
The vacancy was notified through the Employment Exchange

Jai

A



Vide Annexure A-10 page 22 of the O.A., and directed the 3rd respondent to serve the orders on the applicant and terminate the services of the applicant by making a provisional arrangement. The said notice was served on the applicant on 27--9--1994 by Respondent No.3. The applicant initially refused to hand over the charge. He later left the station without any intimation. The charge of the B.O., was thus got transferred by Respondent No.3 to another provisionally appointed B.P.M. on 27--9--1994 in the presence of the Sub Inspector of Police. // In the mean-time, this O.A., was filed on 29--7--1994 and an interim order was issued in this O.A., on that date, suspending the impugned order of termination of the applicant's services dated 21-7-1994 and that it was intimated by a Telegram to the official respondent No.1 on 1-8-1994. In pursuance of the ^{interim} order of this Tribunal, the charge of BO was handed over to the applicant on 1-9-1994 restoring the position prior to the orders dated 21-7-1994. Thus the applicant is still continuing in the post of EDBPM.

Thus this O.A., is filed for setting aside the impugned order of termination dated 21-7-1994 by holding it as illegal.

When the O.A., was taken up for hearing earlier on 27--6--1997 we have enquired from both sides whether

the termination order of the applicant is ^{by intermedia by high official} against the

and hence is attracted by
directions given by the Full Bench of this Tribunal

to be taken against him.

In view of the above complaint of Sri S.V.Narasimham, a show cause notice was issued by the 1st respondent by letter No.BED/3-498 dated at Srikakulam 532001 dated 17.5.1994 Annexure A-8 page 18 of the O.A. which reads as under:

" **** **** **** ****

On receipt of a complaint against you that you property in your name of income and have no to the Indian Bank, enquiries were instituted through the IPO(C & PG) of this office. The enquiries revealed that you have taken a loan of Rs.10,000/- from Indian Bank, Shalantri and opened a Kirana shop under self-employment Scheme. You have obtained an income certificate for Rs.3,600/- on the strength of the Kirana shop, but soon after your appointment as BPM, Shalantri, you have closed the business and thus lost the main source of income. Enquiries made with the Indian Bank revealed that there was an outstanding loan of Rs.13560/- against your name as on 31-12-1993.

It is, therefore, felt that since you are not having independent property and also lost the main source of income from business that it is not desirable to continue you as Branch Postmaster, Shalantri BO.

You are, therefore, hereby directed to show cause within 7 days of receipt of this letter as to why your services as Branch Postmaster, Shalantri BO should not be terminated for the reasons stated above. If no reply received within the stipulated period, it will be presumed that you have no representation to make and orders are liable to be issued without waiting for your reply."

ried
The show cause notice was reply_x by the applicant confirming that he has got property and income as stated in his application. Notice under Rule 6 of EDA (C & S) Rules, 1965 was issued by the 1st respondent terminating the services of the applicant with immediate effect by Memo No.BEL/3-498 dated 21-7-1994

Hence, he ^{submitted that} ~~requested~~ this case has to be looked into from that angle ^{also}.

The contentions made by the learned counsel for the applicant have been taken note of while delivering the judgment in O.A.57/91. Hence, this Bench cannot go against the ~~high~~ dictum laid down by the Full Bench Judgment in O.A.57/91 on the basis of the submissions made by the learned counsel for the respondents in this O.A. It is for the respondents to take up this issue either by amending the rule or otherwise, if they are aggrieved by the decision of the Full Bench in O.A.57/91. Hence, the only point for consideration in this O.A., is whether the termination of the applicant on the basis of the interference by the higher officials higher than the Appointing Authority can be held valid or not. This question has been elaborately considered by the Full Bench in O.A.57/91 and came to the conclusion that the higher officials higher than the Appointing Authority cannot interfere with the appointment of ED Staff, and even the appointing authority cannot interfere with the appointment already made by him.

It. In that view, the only course left open, if any irregularity is committed in the appointment of parties ^{have} ED staff is, that the affected ~~applicant~~ ^{parties} to approach the concerned judicial forum for redressal of their grievance.

in O.A.No.57/91 (N.Ambujakshi Vs. Union of India and others)

We have also directed the learned counsel for the applicant to study the judgment in O.A.57/91 and come up with his further arguments. We have also directed the learned counsel for the respondents to check up whether the termination of the services of the applicant herein was effected by ~~the complaints~~ ^{Interference Complaints} received by the higher-ups in the Postal Services and on that basis of examination and scrutiny ^{of the complaint^s was conducted} by the higher officials ^{and on the basis} the impugned order ~~other than the Appointing Authority~~ was issued.

Today, the learned counsel for the respondents submitted that a complaint was received by the Dept., in regard to the property and income certificate produced by the applicant and on the basis of an enquiry ^{and} conducted, the services of the applicant were terminated. He further submitted that the officials higher to the status of the Appointing Authority ^{were} ~~was~~ involved in taking the decision while terminating the services of the applicant by the impugned order.

The learned counsel for the respondents further elaborated that ~~if~~ ^{if} the appointment of the ED Staff

cannot be terminated by the higher officials on receipt of the complaints and checking up ^{and probing into} all the details ^{fully} ~~wholly~~, which ~~is~~

^{a position will} upset the chain of command and the authority of the

higher officials in running the administration/Department.

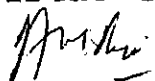
Here so far no affected parties who ^{have responded} ~~were respondents~~
to the ^{notification} ~~application~~ had approached the Tribunal.

The termination of services of the applicant was done by the Department on the basis of certain directions issued by the higher officials higher than the Appointing Authority in this case. We are, therefore, of the opinion that the termination order for the reasons stated above is irregular and cannot be sustained.

In that view, the termination order is liable to be set aside and it is accordingly set aside. However, this will not stand in the way of any affected party to approach the Tribunal at ^a later date for redressal of his grievance ^{in accordance with law}.

In the result, the O.A., is allowed and the impugned Order Memo No.BED/3-498 dated 21-7-1994 is set aside. No order as to costs.

प्रमाणित प्रति
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न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH