

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

O.A.NO.336/95.

Date of Judgment: 15.3.95

BETWEEN:

B.V.RAMANAMURTHY

.. APPLICANT

AND

1. The Supdt. of Post Offices,  
Anakapalle Division,  
Anakapalle-531001 Vizag Dt.

2. The Postmaster,  
Chodavaram Post Office,  
Chodavaram-531036.

... RESPONDENTS

COUNSEL FOR THE APPLICANT: SHRI D.GOPALA KRISHNA

COUNSEL FOR THE RESPONDENTS: SHRI N.R.DEVARAJ

CORAM

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMIN.)

CONTD....

PLA

O.A.NO.336/95.

JUDGMENT

Dt:15.3.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN).

Heard Shri D.Gopala Krishna, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. This OA was filed praying for declaration that the notice bearing Memo No.B/ED-3/427, dated 15.2.95 issued by R-I terminating the services of the applicant on the expiry of one month from the receipt of the said memo, is illegal, arbitrary and violative of principles of natural justice.

3. Shri N.R.Devaraj, learned standing counsel for the respondents submitted that he was instructed to state the following:-

When the permanent incumbent of the post of Extra Departmental Branch Post Master (EDBPM), Turuvolu, Chidikada Mandal, Visakhapatnam District was going to retire on 30.6.1994 on attaining the age of superannuation, the notification was issued on 20.4.1994 calling for applications for the said post. 13 candidates including the applicant herein submitted

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applications along with the enclosures by 19.5.1994 ie., last date prescribed as per the notification. The applicant was appointed as EDBPM, Turuvolu on 30.6.1994 on provisional basis. After he was regularly selected to the said post, he was regularly appointed as EDBPM, Turuvolu, Chidikada Mandal, Visakhapatnam District with effect from 19.7.1994. The Regional Director of Postal Services (Regional DPS) inspected the office of R-I who issued the order ~~of~~ appointing the applicant as a regular EDBPM, Turuvolu on 24.8.1994. It is stated ~~in~~ that on inspection, the Regional DPS noticed that another candidate was more qualified than the applicant herein and that candidate should have been appointed to the said post. On receipt of the said report on 2.2.1995, R-I issued the impugned order dated 15.2.1995 in ~~exercise of powers~~ exercise of powers under Rule 6 of Extra Departmental (Conduct and Service) Rules which reads as under:-

"Rule 6: Termination of Services:

(a) The services of an employee who has not already rendered more than three years continuous service from the date of his appointment shall be liable to termination at any time by a notice in writing given either by the employee to the appointing authority or by the appointing authority to the employee;

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(b) The period of such notice shall be one month:

Provided that the service of any such employee may be terminated forthwith and on such termination, the employee shall be entitled to claim a sum equivalent to the amount of his basic allowance plus Dearness Allowance for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month."

(Rule 6 was amended by the letter No. 17-3-/8/91-ED & Trg., dated 22x 2.2.93).

4. Thus, <sup>in effect</sup> it is a case of issual of the impugned memo dated 15.2.1995 ~~on reconsideration of the order of appointment and by reviewing~~ <sup>on the basis of</sup> the order of appointment by the superior authority.

5. Similar point had come up for consideration before the Full Bench of this Tribunal in OA 57/91 on the file of this Bench. It was held therein that Rule 16 of ED Agents (Conduct & Service) Rules does not empower the superior authority to review the

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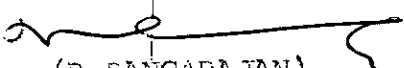
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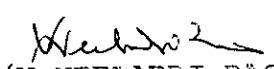
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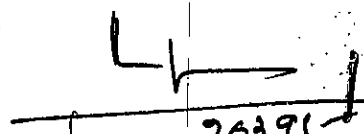
order of appointment issued by the lower authority who is competent to issue that order of appointment. It is further stated therein that the superior authority cannot review the order of appointment issued by the lower authority who is competent, perse on the ground that he is superior to the appointing authority on the administrative side. When the superior authority cannot review an order of appointment passed by a lower authority, he cannot give any direction to the lower authority to terminate the order of appointment on the basis of the alleged irregularities. In such<sup>or</sup> case, even the appointing authority cannot issue an order of termination by invoking Rule 6 of ED Agents (Conduct & Service) Rules on the basis of the alleged irregularities as observed by the Inspecting authority in ~~his~~ inspection report or otherwise.

6. In view of the above Full Bench Judgment, the impugned memo No.B/ED-3/427, dated 15.2.1995 is liable to be set-aside. In the result, the said memo is set-aside and the OA is ordered accordingly at the admission stage. No costs./

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

  
(V. NEELADRI RAO)  
VICE CHAIRMAN

DATED: 15th March, 1995.  
Open court dictation.

  
26395  
Deputy Registrar

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TYPED BY  
COMPARED BY

C. Koduru  
20/3/95  
CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE- CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN: M (ADMN)

DATED - 15-3-1995.

ORDER/JUDGMENT:

M. A. / R. A. / C. A. No.

O. A. No.

in

336/95

T. A. No.

(W. P.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

along with CA copy

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No. order as to costs.

No spare copy

20/3/95

