

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A. No. 124/93

Dt. of order: 23.3.1994

Mahesh Chand Gupta

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr. R. P. Pareek

: Counsel for applicant

Mr. U. D. Sharma

: Counsel for respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Member (Judl.)

Hon'ble Mr. O. P. Sharma, Member (Adm.).

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (JUDL.).

Applicant Mahesh Chand Gupta, has filed this application under Sec. 19 of the Administrative Tribunals Act, 1985 praying that the impugned order dated 13.9.91 by which the order with regard to the approval for appointment of the applicant to the post of Extra Departmental Branch Post Master (EDBPM) Kasad was cancelled and the order dated 28.10.92/4.11.92 of the Director Postal Services, Jaipur by which his representation was rejected, be quashed with all consequential benefits.

2. We have heard the learned counsel for the parties and have perused the records.

3. The facts of the case as are necessary for the adjudication of the dispute between the parties are as follows: The applicant was recruited for appointment to the post of EDBPM as per rules and his name was duly approved vide communication dated 22.2.91 (Annex. A4) by the Superintendent of Post Offices, Sawai Madhopur. Thereafter he took charge of the post vide order dated 3.5.1991. (Annex. A5). Since the respondent No. 3 cancelled the approval of appointment, the applicant had to relinquish the charge of the post on the afternoon of 21.9.91. The Supdt. of Post Offices, Sawai Madhopur queried from the District Education Officer, Karauli vide his communication dated 12.6.91 as to his competence to alter the applicant's date of birth from 8.3.75 to 8.3.72. The District Education Officer, Karauli, informed the respondent No. 3 that under the Gazette notification dated 15/31.5.64, he was competent to alter the date of birth of a student and it was under this authority that

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the applicant's date of birth was altered from 8.3.75 to 8.3.72. However, the respondent No.3 without awaiting any reply from the Distt. Education Officer, issued a show cause notice to the applicant vide Annx.9 dated 13.6.91 requiring him to furnish proof to the effect that the Distt. Education Officer, Karauli, was competent to change his date of birth. The applicant claims that he had replied to the show cause notice on 3.8.91 but the respondents denied having received the same. The contention of the applicant is that the termination of his services is arbitrary and illegal. The respondents plead that the approval of appointment of the applicant had been cancelled properly by following the principles of natural justice in as much as a show cause notice was given to the applicant vide Memo dated 13.6.91 (Annx.A9) asking him to furnish documentary evidence to the effect that the District Education Officer, Karauli, was competent to amend his date of birth within the 15 days of receipt thereof. Since the applicant did not furnish any reply to the show cause notice he was held not eligible for appointment and as such the order of approval of his appointment was cancelled vide Memo dated 13.9.91.

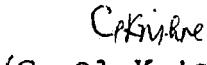
5. It is borne out from the record that the Supdt. of Post Offices, Sawai Madhopur had made a query from the District Education Officer, Karauli as to his competence regarding the change in the applicant's date of birth made by him and the latter had sent a communication to the former vide Annx.A8 dated 3.8.91 stating that the Distt. Education Officer was competent to make alteration in the date of birth under a gazette notification dated 15/13.5.64 and he had also confirmed that the applicant's date of birth was changed from 8.3.75 to 8.3.72 vide an Office Order dated 21.8.90. The aforesaid Office Order is marked as Annx.A-12 on the record. We, therefore, find that the correction of the applicant's date of birth was made by a competent authority before the applicant's entry into the service of the respondents. The applicant's date of birth being 8.3.72 he was more than 18 years old on the date he was appointed to the post of EDBPM, Kasad. In these circumstances there were no valid grounds for terminating the services of the applicant and cancelling the approval for his appointment

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to the said post. The Impugned orders are therefore liable to be quashed.

5. In the result the impugned orders dated 13.9.91 at Annx.A1 and 28.10.92/4.11.92 at Annx.A-3 are set aside and the respondents are directed to reinstate the applicant in service with all consequential benefits. There shall be no order as to costs.


(O.P. Sharma)
Member (A).


(Gopal Krishna)
Member (J).