

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 02.08.2000

OA No. 203/1999

Om Prakash Nat S/o Shri Moti Kalyan working as EDMC/ EDDA
Bamangam via Nainwa, Distt. Bundi

.. Applicant

V e r s u s

1. Union of India through Secretary, Ministry of Communications, Department of Post, Dak Bhawan, New Delhi.
2. Postmaster General, Rajasthan, Southern Region, Ajmer.
3. Superintendent of Post Offices, Tonk Division, Tonk.
4. Sub Divisional Inspector (Postal), Bundi West Sub Division, Bundi (Raj).
5. Brij Mohan Sharma, Offg. EDMC/EDDA, Bamangaon, Nainwa, Distt. Bundi

.. Respondents

Mr. K.L.Thawani, counsel for the applicant

Mr. Hemant Gupta, proxy counsel to Mr. M.Rafiq, counsel for respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. S.K.Agarwal, Judicial Member

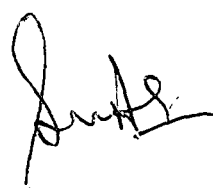
In this Original Application filed under Section 19 of the Administrative Tribunals Act, the applicant makes a prayer to quash and set-aside the impugned order at Ann.A1 and to direct the respondents to reinstate the applicant in service with all consequential benefits.

2. In brief, the case of the applicant as stated by him is that applicant was a regularly selected candidate and he was working since 26.12.1995 on the post of Extra Departmental Mail Carrier/Delivery Agent, Bamangam, Nainwa, Distt. Bundi but his services were terminated without giving any show-cause notices. Therefore, the said termination is illegal and the applicant is entitled to the relief sought for.

3. Reply was filed. In the reply it is stated that applicant was appointed ~~as~~ provisionally and his services were terminated vide order dated 11.12.1998 as this was only provisional arrangement.


4. Admittedly, the appointment of the applicant was under relaxation of recruitment rules on compassionate grounds and it is the settled position of law that nature of any appointment on compassionate cannot be provisional or temporary but appointment on compassionate ground are always permanent in nature as it has been held in Ravi Karan Singh v. State of UP, Allahabad High Court (DB) 2000(1) SLR 707, that appointment under dying and harness rules is permanent appointment otherwise if such appointment is treated as temporary appointment soon after the services can be terminated and this will nullify the very purpose of appointment given on compassionate grounds.

5. More so, the impugned order of termination Ann.A1 is admittedly issued without giving any opportunity of show-cause, thereby principles of natural justice are grossly violated by the respondents before issuing the order of termination. It is a settled principle of law that if any order entails civil consequences, principle of audi-alteram-partem should have been adopted before issuing such order.



6. In the instant case, the applicant's appointment was on compassionate grounds in relaxed standards. Therefore, merely writing out provisional in the order of appointment does not make the appointment of the applicant as provisional whereas according to the settled legal position, nature of such appointment is permanent one. Services of permanent appointee can only be terminated after following the due process of law. In this case, same has not been applied, therefore, we are of the considered opinion that the order at Ann.A1 by which services of the applicant were terminated is per-se illegal and liable to be quashed.

7. We, therefore, allow this application and quash the order of termination at Ann.A1 and direct the respondents to reinstate the applicant in service within one month from the date of receipt of the copy of this order with all consequential benefits. No order as to costs.


(N.P.NAWANI)

Adm. Member


(S.K.AGARWAL)

Judl.Member