

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 350 of 2001

Jabalpur, this the 7th day of May, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Shri Prakash Dixit, Aged about 27
years, S/o. Shri Keshav Dax Dixit,
R/o. Gram Chhidadi, Tahsil - Baldegarh,
Post Master Bijron, Sub Post Office
Degota, District - Tikamgarh (MP). ... Applicant

(By Advocate - None)

V e r s u s

1. Union of India,
through - The Secretary,
Department of Communication Post &
Telegraph, New Delhi.
2. Superintendent of Post Office,
Chhattarpur Division, Chhattarpur
(Madhya Pradesh). ... Respondents

(By Advocate - Shri Harshit Patel on behalf of Shri S.C.
Sharma)

O R D E R

By Madan Mohan, Judicial Member -

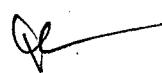
None for the applicant. Since it is an old case of 2001, we proceed to dispose of this OA by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents.

2. By filing this Original Application the applicant has claimed the following main reliefs :

"(a) that the records of the case pertaining to appointment of the petitioner may kindly be called for the kind consideration of this Hon'ble Court and the impugned order vide Annexure P/2 dtd. 26.3.2001 may kindly be quashed and Rule 6 of Rule 1964 be declared ultravires.

(b) further a writ of mandamus be issued commanding the respondents not to oust the petitioner from service during the pendency of the petition and the petitioner be also given their salary."

3. The brief facts of the case are that the applicant



was initially appointed vide order dated 21.6.1999 by the respondent No. 2 for the post of Branch Post Master (ED Agent) in Post Office Bijron Sub Post Office Degoda for the vacant post. The applicant joined his duties accordingly. But all of a sudden the applicant received the impugned order dated 26.3.2001 passed by the respondent No. 2 terminating the services of the applicant in pursuance of the provisions of Rule 6(b) of the Postal Telegraphs Extra Department (Conduct and Service) Rules, 1964. The impugned order is passed without giving any opportunity to the applicant which is violation of the rules. The applicant further submitted that it is the practice of the respondent No. 2 to appoint the Branch Postmaster and by taking the advantage of Rule 6 which confers the unbridled, unguided and uncontrolled power to terminate the services in order to appoint another Post Master for the ulterior motive best known to him and to achieve the foul mission. In this way this Rule 6 is being misused and also violates Article 14 of the Constitution of India. Aggrieved by this the applicant has filed this OA claiming the aforesaid reliefs.

4. The learned counsel for the respondents argued that the applicant obtained employment by submitting fake educational certificate of a unrecognised institution. This fact regarding submission of fake certificate has also been confirmed by the District Employment Officer, Tikamgarh vide letter dated 5.7.1999. Hence after observing the procedure prescribed under the P&T EDA (Conduct and Service) Rules, 1964, the applicant was terminated. There is no legal or procedural infirmity in the action of the respondents. He further argued that on perusal of the character certificate issued by the Principal, Government HSS DERI, District Tikamgarh on 14.4.1993, revealed that the



candidate studied in the institution from 6.1.1992 to 18.8.1992 and cleared 11th in third division from the said institution. It cannot be therefore believed that the candidate will appear in the High School Examination which is lower than that of XI passed as a regular student. It was therefore held that the applicant had submitted qualification certificate from an unrecognised institution to secure the employment. The applicant is having less than three years service on the post of EDBPM. Termination is under Rule 6 of the Rules and therefore it is in order calling for non-interference. It is further submitted that the applicant had suppressed the fact of his higher education acquired by him ^{Government} which is certified by the Principal of the School from which the character certificate was issued.

5. We have given careful consideration to the rival contentions made on behalf of the parties and we find that the applicant has passed his XIth standard in the year from 6.1.1992 to 18.8.1992, which is evident from the character certificate dated 14.4.1993 (Annexure R-II). The mark sheet issued by the Central Board of Higher Education, New Delhi on 3rd July, 1998 shows that the applicant obtained first division in High School examination in the year 1998, while the applicant passed his XIth standard examination in the year 1992. It is not believeable that he would again appear in the lower examination of High School after six years. The institution of Central Board of Higher Education, New Delhi wherefrom the applicant has obtained the mark sheet of High School examination is not a recognised institution and after ^{further} enquiry this certificate was found to be fake. The allegation ^{is} of the applicant in the OA/that Rule 6 of Post and Telegraph Extra Department Agent (Conduct and Service) Rules, 1964 be declared as ultravires. This Tribunal is not a

constitutional court and only the Hon'ble Supreme Court and Hon'ble High Court can see the validation of the constitution. Hence we find that in this present case the mark sheet submitted by the applicant of 3rd July, 1998 from the Central Board of Higher Education, New Delhi is fake and we also find that the applicant has obtained the appointment impugned on the basis of a fake certificate. Hence the order passed by the respondents does not need any interference.

6. Accordingly, we are of the considered opinion that the Original Application does not have any merit and it deserves to be dismissed. Hence the Original Application is dismissed. No costs.

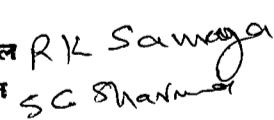
(M. P. Singh)
Judicial Member

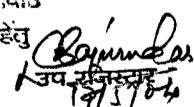

(M.P. Singh)
Vice Chairman

"SA"

कृतांकन सं ओ/न्या..... जबलपुर, दि.....
प्रतिलिपि दर्शवे शिलत:-

(1) रामेश्वर, उच्च ज्याराज्यालय वार एरियाइशन, जबलपुर
(2) आकेश्वर श्री/श्रीमती/कु..... के काबंसल
(3) प्रसादी श्री/श्रीमती/कु..... के काबंसल
(4) वंशपाल, थेज़ा, जबलपुर एवं इन्हें
सूचना एवं आवश्यक कार्यवाची हेतु


R.K. Sawant
SC Sharmaji


R.K. Sawant
SC Sharmaji


R.K. Sawant
SC Sharmaji