

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP : GWALIOR

Original Application No.795 of 1997

Gwalior, this the 14th day of July, 2003

Hon'ble Shri Kuldip Singh-Judicial Member,
Hon'ble Shri Anand Kumar Bhatt-Administrative Member

Gauri Shankar Sharma S/o Shri Brindawan Lal Sharma,
Aged 39 years, Occupation: Unemployed at present,
R/o Mrigpura, District Morena (M.P.) - APPLICANT

(By Advocate - Shri S.C.Sharma)

Versus

1. The Union of India, through the Secretary,
Ministry of Posts, New Delhi.
 2. Chief Post Master General, M.P. Circle, Bhopal.
 3. Post Master General, Postal Department Indore
Region, Indore (M.P.).
 4. Superintendent of Post Offices, Chambal Division,
Morena (M.P.).
 5. Dy. Divisional Inspector (Dak), Morena (M.P.) - RESPONDENTS
- (By Advocate - None)

ORDER (Oral)

By Kuldip Singh, Judicial Member -

The applicant was appointed as Extra Departmental Delivery Agent (for short 'EDDA') in village Mrigpura, District Morena. However, he was proceeded against by issuing a charge-sheet to the effect that since he had participated in the local election of Panchayat so why he should not be removed from the post of EDDA. Consequent to that charge-sheet the applicant was removed from the said post. The applicant in this OA assails the removal on the ground that the alleged charge-sheet has been issued under Rule 18(4) of the Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964 (hereinafter referred to as 'the Rules').

2. The learned counsel of the applicant submits that

the Rules are not statutory rules, as such these rules cannot restrict the fundamental rights of the applicant under Article 19 of the Constitution of India to participate in election. Besides that, the counsel for the applicant also submits that against two other persons, namely, Purushottam and Keshav Prasad Sharma, who were also working as EDDA and also participated in the same election as per annexures A-10 and A-11, no action has been taken against them and they are still working as EDDA.

3. The department has contested the OA by filing their reply. The department submitted that on the basis of some complaint received against the applicant about contesting his election, a charge-sheet was issued to him since this act on the part of the applicant was in violation of Rule 18(4) of the Rules. So, the department has rightly taken ^{action} against the applicant.

4. We have heard the learned counsel of the applicant. As none has appeared on behalf of the respondents, we have proceeded to decide this OA under Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987 in the absence of the respondents' counsel.

5. The learned counsel of the applicant has referred to a decision in the case of V. Gopinathan Vs. The State of Kerala, AIR 1964 Kerala 227 which specifically provides that -

"Government Servant Conduct Rules, 1950 (Tra. Co.) Rr. 70 and 72 - Taking part in politics and elections - Prosecution and dismissal of Government servant for violation of these rules - Rules not being framed under Art. 309 of the Constitution are not "law", and hence not competent to impose restrictions on fundamental rights - Proceedings held vitiated".

Counsel for the applicant submitted that these Rules of 1954 have been subsequently also commented upon as being non-statutory rules by Talwar Committee who had recommended framing of new rules which have come into force in 2001.

Since the recommendations of the Talwar Committee itself shows that the rules and service conditions of EDA staff are not statutory rules so following the judgment in the case of V.Gopinathan (supra), relied upon by the learned counsel of the applicant, we are also of the view that these Rules are restricting the right of the applicant to participate in the local election of Gram Panchayat. *However, the same cannot be pressed to debar him from the job for*

6. Besides that, counsel for the applicant has also pleaded that the applicant has been treated in a discriminatory manner as to other persons, namely, Furushottam and Keshav Prasad Sharma, who had participated in the same election, have been allowed to continue in the same job as EDDA. So, we also do not find any reason as to why the applicant has been proceeded against and no action has been taken against the other two persons. This act on the part of the respondents is also violative of Articles 14 and 16 of the Constitution of India. The learned counsel of the applicant has also mentioned that as per the extract of the judgement quoted in Service Rules for ED Staff by Muthuswamy, the Bangalore Bench had observed that the Extra Departmental Agent System is said to have taken inception in the Department of Posts and Telegraphs as long back as in 1854 and the object underlying was a judicious blend of economy and efficiency in catering to postal needs of the rural communities dispersed in remote areas; and the department, therefore, hit upon the idea of availing of the services of school teachers, shop keepers landlords and other persons in a village, who had the faculty of a reasonable standard of literacy and adequate means of livelihood. This observation of the Bangalore Bench also shows that these applicants are not employees of the State under Article 309 of the Constitution, and their services are being used only to provide postal service in the rural villages of the country and these persons do not ~~governments~~

come within the purview of Civil Servants to whom this CCS (CCA) Rules or Conduct Rules may apply. Since these Rules being non-statutory rules, we are of the considered opinion that the same cannot restrict the rights of the applicant as provided to him under Article 19 of the Constitution of India. So we find that the action taken by the department for removal of the applicant from the post of EDA cannot stand as being violative of Articles 19 and 14 of the Constitution of India. We quash the same. We allow the OA with the following directions:-

We direct the respondents to reconsider the appointment of the applicant as EDDA within a period of three months from the date of receipt of a copy of this order. However, the applicant will not be entitled to any back wages. No costs.

SA-1
(Anand Kumar Bhatt)
Administrative Member

SA-1
(Kuldip Singh)
Judicial Member

17-7-03

rkv.

Court Officer,
Central Administrative Tribunal
Jabalpur Bench, Jabalpur

① Ch. S. C. Sharma
O.C. Cwl

② Ch. T. C. Singh
O.C. Cwl.
Se Agam
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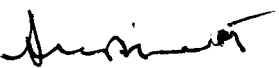
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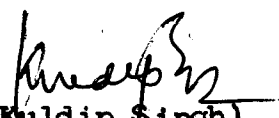
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