

Union of India and Others

Vs

Jayakumar Parida

Civil Appeal No. 11643 of 1995

(K. Ramaswamy, B. L. Hansaria JJ)

27.11.1995

ORDER

1. Delay condoned.

2. Leave granted.

3. The respondent was appointed on 31-3-1989 as an Extra-Departmental Branch Postmaster and he had joined the post on 16-5-1989. His appointment was terminated on 25-2-1991. He filed OA No. 81 of 1991 in CAT at Cuttack. The Tribunal by order dated 24-8-1994 set aside the order of termination on the ground that it did not contain any reason nor any opportunity is given to the respondent. Therefore, it was violative of principles of natural justice. Accordingly, it directed reinstatement of the respondent with all consequential benefits. Thus this appeal by special leave.

4. Rule 6 of the Posts and Telegraphs Extra-Departmental Agents (Conduct and Salaries) Rules, 1964 provides that :

"6. Termination of Services. - The service of an employee who has not already rendered more than three year's continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice."

5. The question is whether the termination of the respondent is in accordance with this rule. There appears to be a complaint laid against the respondent that he had produced a false income certificate before seeking appointment. That was taken into account while make the appointment of the respondent as Extra-Departmental Branch Postmaster. It is settled law that if any material adverse to the respondent formed a foundation for termination, principles of natural justice may necessarily required that prior opportunity of notice be given and after considering his reply appropriate order may be passed giving reasons in support thereof. If it is only a motive for taking action, in terms of Rule 6, since that rule provides that such a termination could be made within three years without any notice, there would be no obligation on the part of the appellant to issue any notice and to give opportunities before termination. So each case requires to be examined on its own facts.

6. It was admitted on behalf of the appellants in the counter-affidavit filed before the Tribunal that the action was initiated on the basis of a report submitted against the respondent that he had produced false income certificate. In other words, it formed a foundation and not a motive for taking the impugned action. Accordingly, we decline to interfere with the order of the Tribunal setting aside the termination. However, the respondent is not entitled to any back wages.

7. The appeal is accordingly allowed to the above extent. No costs.