

UNION OF INDIA AND ORS.

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v.

JAYAKUMAR PARIDA

NOVEMBER 27, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

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Posts and Telegraph Extra-Departmental Agents (Conduct and Salaries) Rules, 1964 : Rule 6.

Service—Termination without notice—Adverse material against employee—Forming basis of termination order—Employee not given any opportunity—No reason given for termination—Reinstatement ordered by Tribunal—Held no interference was called for—But employee held not entitled to back wages.

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An order terminating the services of the respondent, an Extra Departmental Branch Post Master, was passed under Rule 6 of the Posts and Telegraph Extra Departmental Agents (Conduct and Salaries) Rules, 1964 which was based on a report submitted against the respondent that he had produced a false income certificate at the time of appointment. The termination order was set aside by the Tribunal on the ground that it was violative of the principles of natural justice because neither any reason was given for termination nor any opportunity was given to the respondent. Consequently the Tribunal directed reinstatement of the respondent with all consequential benefits. Union of India preferred appeal before this Court.

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Allowing the appeal in part, this Court

HELD : It is settled law that if any material adverse to the respondent formed a foundation for termination, principles of natural justice may necessarily require that prior opportunity of notice be given and after considering his reply appropriate order may be passed giving reason in support thereof. If it is a motive for taking action, in terms of Rule 6 of the Posts and Telegraph Extra-Departmental Agents (Conduct and Salaries) Rules, 1964, 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

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- A** opportunities before termination. So each case requires to be examined on its own facts. In this case 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, the order of the Tribunal setting aside the termination cannot be interfered with. However, the respondent
- B** will not be entitled to any back wages. [697-B-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11643 of 1995.

- C** From the Judgment and Order dated 24.8.94 of the Central Administrative Tribunal, Cuttack in O.A. No. 81/91.

T. C. Sharma, Mrs. Anil Katiyar and C. V. Subba Rao for the Appellants.

- D** Bharat Sangal and Sanjeev Das for the Respondents.

The following Order of the Court was delivered :

Delay condoned.

- E** Leave granted.

- F** The respondent was appointed on March 31, 1989 as an Extra-Departmental Branch Post Master and he had joined the post on May 16, 1989. His appointment was terminated on February 25, 1991. He filed O.A. No. 81/91 in CAT at Cuttack. The Tribunal by order dated August 24, 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.

- G** Rule 6 of the Posts and Telegraph Extra-Departmental Agents (Conduct and Salaries) Rules, 1964 provides that :

- H** "6. Termination of Services : The service of an employee who has not already rendered more than three years continuous service from the date of his appointment shall be liable to termination by

the appointing authority at any time without notice."

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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 making the appointment of the respondent as Extra- Departmental Branch Post Master. It is settled law that if any material adverse to the respondent formed a foundation for termination, principles of natural justice may necessarily require 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.

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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.

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

T.N.A.

Appeal allowed.