

(1972) 05 KL CK 0009
In the High Court Of Kerala
Case No : W.A. No. 265 of 1970

A.K. Sathi

APPELLANT

Vs

The Senior Superintendent of Post Offices Ernakulam and
others

RESPONDENT

Date of Decision : 22-05-1972

Acts Referred:

Citation : (1973) KLJ 501

Hon'ble Judges : T.C. Raghavan, J;G. Viswanatha Iyer, J

Bench : Division Bench

Advocate : O.V. Radhakrishnan and K. Radhamani, for the Appellant;

Judgement

T.C. Raghavan, C.J.—The appellant, the petitioner in the writ petition, was an extra Departmental Branch Post Master, taking charge under Ex. P1 on 1st June, 1968; and her services were terminated by Ex. P2 dated 19th June, 1970. Ex. P2 Just stated that, under R. 6 of the Extra Departmental Agents (Conduct and Services) Rules, 1964, the services of the appellant were ordered to be terminated with immediate effect: no reason whatsoever was given for terminating her services. The appellant came to this court with a writ petition, which was dismissed by a learned Single Judge holding that the appellant's services could terminated during the period of three years since the appointment was temporary and the termination of services need not have complied with the principles of natural justice since it was not a punishment. In the opinion of the learned Judge, the appointment of the appellant was virtually on trial.

R. 6 mentioned above reads:

Termination of services: The Services of an employee shall be liable to termination by the appointing authority at any time without notice for generally unsatisfactory work within three years from the date of appointment or any administrative ground unconnected with his conduct.

As we have already indicated, the order terminating the services of the appellant

did not mention any ground for the termination. It is evident from the language of R. 6 that an employee like the appellant could have been dismissed only on one of the two grounds mentioned in the rule, either for generally unsatisfactory work or on any administrative ground. Since no ground is mentioned in the order of dismissal, it is clear that the rule has not been complied with. The Single Judge has also observed that the appellant did not question the vires of R. 6; but we feel that nothing turns on this.

2. The Central Government Pleader has drawn our attention to the decision of the Supreme Court in *Ram Gopal Chaturvedi Vs. State of Madhya Pradesh*, . In that case, the services of a Civil Judge were dispensed with under R. 12 of the Madhya Pradesh Government Servants (Temporary and Quasi Permanent Service) Rules, 1960. Clause (a) of the rule provided that, subject to any provision contained in the order of appointment or in any agreement between the government and the temporary Government servant, the service of a temporary Government servant who is not in quasi permanent service shall be liable to termination at any time by notice in writing given either by the Government servant to the appointing authority or by the appointing authority to the Government servant: provided that the services of any such Government servant may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowances for the period of the notices, etc., Evidently this rule is different from R. 6 before us. R. 6 requires one of the two grounds mentioned therein, on which alone the services of an employee could be terminated, whereas, under R. 12 of the Madhya Pradesh Rules, an employee could be dismissed on one month's notice or one month's salary in lieu of the notice. It is thus clear that the Supreme Court decision cited has no application to the case before us.

The appeal is allowed, the decision of the Single Judge is set aside and the writ petition is allowed quashing Ex. P2, the order terminating the services of the appellant. The respondents will also pay the costs of the appellant in the appeal.