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**(1984) 03 AHC CK 0021**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 11003 of 1983

Govind Saran Dwivedi & Others

APPELLANT

Vs

Union of India, Through The Director General, Post &  
Telegraph, New Delhi & Others

RESPONDENT

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**Date of Decision :** 21-03-1984

**Acts Referred:**

**Citation :** (1984) 03 AHC CK 0021

**Hon'ble Judges :** K.N.Singh, J and A.Banerji, J

**Final Decision :** Allowed

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## Judgement

K.N. Singh, J.—By means of this petition under Article 226 of the Constitution, three petitioners have approached this Court for the issue of a writ of Certiorari quashing the order dated 9.8.1983 passed by the Head Record Officer, R.M.S. (C) Division, Gorakhpur, cancelling the petitioners appointment with immediate effect.

2. Briefly, the facts giving rise to this petition are that in June, 1981 a selection was held for appointment to the post of Extra Departmental Mail Men. The petitioners were selected and appointed by means of an order dated 3rd June, 1981, as Extra Departmental Mail Men and since then they have been working. It appears that some workers' Union made certain complaints to the Post Master General. The Assistant Post Master General held some enquiry and thereafter he directed the appointing authority to cancel the selection and petitioners' appointment. In pursuance of that direction, the Head Record Officer by his order dated 9.8.1983 cancelled the order dated 3.6.1981 under which the petitioners had been appointed and they were further relieved of their duty immediately.

3. Learned counsel for the petitioners urged that the result of the cancellation of the appointment order was that the petitioners services stood terminated without giving them any opportunity of hearing. We find considerable force in the contention. In the counter affidavit filed on behalf of the respondents, it is asserted that the petitioners appointment has been cancelled, as a number of irregularities were found in the selection, some of which have been mentioned in

paragraph 6 of the counter affidavit. The petitioners have, however, asserted that they were not given any opportunity at any stage either during the enquiry or before the issue of the impugned order. Since the petitioners had been appointed after their selection and they had been working for more than two years, they had acquired a right to continue in service unless the same was terminated in accordance with service Rules. If there was any irregularity committed in the selection and if the authorities proposed to cancel the selection, the petitioners should have been given opportunity of hearing. Admittedly, no opportunity was given to the petitioners, as a result of which principle of natural justice was clearly violated... An order passed in breach of the principles of natural justice is rendered null and void, and it is not necessary to demonstrate any prejudice. See *S.L. Kapoor v. Jagmohan & others* (AIR 1981 SC 136)

4. Learned counsel for the respondents urged that since the petitioners were appointed in temporary capacity, their services were terminated without assigning any reason and, as such, the order of termination is valid. We find no substance in this plea. The impugned order dated 9th August, 1983 (Annexure II to the petition) indicates that the petitioners' services were not terminated in accordance with the terms and conditions of their service. The impugned order further says that the appointment order was cancelled in pursuance of a direction issued by the Post Master General, U.P. Circle, Lucknow. It is apparent that the petitioners services have not been terminated in accordance with the terms and conditions applicable to temporary Government servants, instead their appointment order has been cancelled and they have been put off their duty on account of cancellation of selection and appointment. For this reason also the petitioners were entitled to hearing.

5. In the result, we allow the petition and quash the order dated 9.8.1983. There will be no order as to costs.

(Petition allowed)