

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/20/872/2014**

HYDERABAD, this the 24<sup>th</sup> day of February, 2020



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

K.M. Raja Narayana,  
So. K. Rammurthy,  
Aged about 31 years,  
Occ: Gramin Dak Sevak Branch Postmaster,  
(Under the orders of Termination),  
Ro. Seethaveedhi, Chennur Village,  
Gudur Mandal,  
Nellore District ò 524 406.

...      **Applicant**

(By Advocate: Mr. B. Pavan Kumar)

Vs.

1. Union of India rep. by its  
Secretary,  
Dept. of Posts ò India,  
M/o. Communications and IT,  
Dak Sadan,  
New Delhi ò 110 001.
2. The Chief Postmaster General,  
A.P. Circle,  
Hyderabad.
3. The Postmaster General,  
Vijayawada Region,  
Vijayawada.
4. The Director of Postal Services,  
O/o. Postmaster General,  
Vijayawada Region,  
Vijayawada ò 3.
5. The Superintendent of Post Offices,  
Gudur (NL) Division, Gudur,  
Nellore District.

...      **Respondents**

(By Advocate: Mr. K. Venkateswarlu, Addl. CGSC)

**O R D E R (ORAL)****Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**

The applicant was appointed as a GDS Branch Postmaster of Chillamuru Post Office of Nellore District through order dated 19.02.2004, but stated to be w.e.f. 6.3.2003. He applied for leave from 01.04.2006 to 03.06.2006. However, he reported to duty only on 6.12.2009, and the respondents did not take him to duty. On the other hand, they issued a notice dated 8.8.2011, requiring the applicant to explain as to why his services should not be terminated. It was also directed that the notice shall be treated as the one under Rule 8(1) of GDS (Conduct & Engagement) Rules, 2001. The applicant submitted his reply on 05.09.2011. He pleaded mercy and requested that he be permitted to join the duty. Not satisfied with that, the Appointing Authority passed an order dated 11.10.2011, stating that the services of the applicant are terminated. The appeal preferred against the order was rejected. Hence, this O.A.

2. The applicant contends that Rule 8 of GDS (Conduct & Engagement) Rules, 2001 mandates that the procedure thereunder, for termination of services by issuing notice applies only in cases where the employee did not complete three years of service, and that since he completed three years of service, the order of termination cannot be sustained in law. He submits that the respondents are under obligation to conduct inquiry in accordance with law, and the procedure adopted by them is untenable.

3. On behalf of the respondents, a reply is filed. It is stated that the applicant remained absent from 06.02.2006 onwards and in that view of the matter, he did not complete three years of service. It is stated that earlier, he submitted resignation and when he was required to submit the same in the stipulated form, he did not turn up and instead, remained absent for years together. It is stated that left with no alternative, the impugned order was passed, duly following the prescribed procedure.

4. We heard Sri B. Pavan Kumar, learned counsel for the applicant. There is no representation on behalf of the respondents.

5. The appointment of the applicant was as GDS BPM. We have come across a typical case in which the appointment was said to have been made with retrospective effect. The order dated 19.02.2004 reads as under:

oSri K.M. Rajanarayana, S/o. Sri K. Ramamurthy, Chennur village, whose date of birth is 26.01.1983 is hereby appointed as Gramina Dak Sevak Branch Postmaster, Chillamuru BO, a/w Yellasiri SO w.e.f. 6.3.2003. He shall be paid such allowances as admissible from time to time.

Sri K.M. Rajanarayana should clearly understand that his appointment as BPM shall be in the nature of a contract liable to be terminated by the undersigned by notifying the other in writing and that he shall also be governed by the GRAMIN DAK SEVAKS (CONDUCT & EMPLOYMENT) RULES, 2001 as amended from time to time.

If these conditions are acceptable to him, he should communicate his acceptance in the proforma enclosed.ö

6. If the appointment itself was on 19.02.2004, it is ununderstandable as to in what capacity, the applicant handled the post of Branch Postmaster earlier to that. It is however a different aspect altogether.

7. The applicant applied for leave from 01.04.2006 to 03.06.2006.

Even before the leave was sanctioned, he remained absent and he reported to duty only in 2009. In between, he submitted resignation in the year 2007.

The concerned authority requested him to send the resignation in a proper form. The applicant has neither sent the resignation in the proper form nor did he attend the duties. It was only in the year 2009, he made an attempt to join and at that stage, the respondents did not permit him. A notice was issued on 8.8.2011 and it reads as under:

öPlease refer your letter No.NIL dated 20.06.2011 addressed to the Post Master General, A.P. Eastern Region, Vijayawada which was in turn forwarded to this office vide R.O. letter No.ST.V/GDS/Misc/GDR/2011 dated 28.6.2011 for further disposal.

As per this office records, you have left the office unauthorizedly w.e.f. 01.03.2006 and absented to duty afterwards. As such, please intimate the reason as to why your services could not be terminated as per provisions of Rule 8(1) of GDS (Conduct & Engagement) Rules, 2001.

Please treat this as one month's notice given to you under Rule 8(1) of GDS (Conduct & Engagement) Rules, 2001.

Your reply should reach this office on or before 8.9.2011.ö

8. In his reply dated 05.09.2011, the applicant has made a request for permitting him to join duty. The order dated 11.10.2011 was passed which reads as under:

öYour explanation given to this office letter of even no. Dated 8.8.2011 is not convincing. Your services are felt no more required and hence terminated henceforth.ö

9. The principal contention urged by the applicant is that he worked for more than three years and there was no justification for the respondents in invoking Rule 8 of GDS (Conduct & Engagement) Rules, 2001. The provision reads as under:



### 8. Termination of Employment

- (1) The employment of a Sevak who has not already rendered more than three years continuous employment from the date of his appointment shall be liable to termination at any time by a notice in writing given either by the Sevak to the Appointing Authority or by the Appointing Authority to the Sevak;
- (2) The period of such notice shall be one month:

Provided that the employment of any such Sevak may be terminated forthwith and on such termination, the Sevak shall be entitled to claim a sum equivalent to the amount of Basic Time Related Continuity Allowance plus Dearness Allowance as admissible for the period of the notice at the same rates at which he was drawing them immediately before the termination of his employment, or, as the case may be, for the period by which such notice falls short of one month.

Note: - Where the intended effect of such termination has to be immediate, it should be mentioned that one month's Time Related Continuity Allowance plus Dearness Allowance as admissible is being remitted to the Sevak in lieu of notice of one month through money order.

10. It is, no doubt, true that the procedure under Rule 8 of GDS (Conduct & Engagement) Rules, 2001 can be adopted only in a case, where an employee did not complete three years of service. In their reply, respondents have categorically stated that the applicant worked up to 06.02.2006 and thereafter applied for leave from 01.04.2006 onwards. Though the applicant sought to contradict this, by filing a statement, we find it difficult to accept the same, since it is not counter signed by any

departmental official. At any rate, the applicant, who remained absent for more than three years and who, in fact, submitted a resignation, cannot be shown any indulgence. Added to that, there is a serious dispute as to the extent of service. Being a jurisdictional fact, it needs a strong foundation to be decided. Basically, the appointment itself was with retrospective effect, and if counted from the date of order, it would be far less than three years. In addition to that, the respondents have stated that the applicant remained absent from 06.02.2006 onwards.

11. In these circumstances, we do not find any merit in the O.A. and it is accordingly dismissed. There shall be no order as to costs.

**(B.V. SUDHAKAR)**  
**MEMBER (ADMN.)**

**(JUSTICE L. NARASIMHA REDDY)**  
**CHAIRMAN**

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