

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00021/2015

Date of CAV :02.02.2021

Date of Pronouncement:16.02.2021.



Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

K.B.Khadar Basha, S/o K.Babji,
Age about 37 years,
Gramin Dak Sevak Mail Deliverer / Mail Carrier,
Ganguchinta B.O a/w. Piler S.O. 517214,
Tirupathi Division .

...Applicant

(By Advocate : Mr. M. Venkanna)

Vs.

- 1.Union of India represented by
The Secretary, Ministry of Communication & IT,
Department of Post – India,
Dak Bhavan, Sansad Marg,
NEW DELHI – 110001.
- 2.The Chief Postmaster General,
A.P. Circle, 'Dak Sadan',
Hyderabad 500 001.
- 3.The Postmaster General,
Kurnool Region, KURNOOL – 518002.
- 4.The Superintendent of Post Offices,
Tirupathi Division,
TIRUPATHI – 517501.
- 5.The Inspector of Posts,
Piler Sub Division, PILER – 517214.

....Respondents

(By Advocate : Mr. A. Vijaya Bhaskar Babu, Addl. CGSC)

ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed by the applicant challenging his termination order vide Memo dt. 19.12.2014 as being illegal, arbitrary and violative of principles of natural justice and to restore his services as GDSMC-MD, Ganugachinta BO, with all consequential benefits like backwages, seniority, promotions, etc.

3. Brief facts of the case are that applicant was selected vide order dated 14.3.2011 as Grameen Dak Sewak (GDS) MC/MD, Ganugachinta BO a/w. Piler SO, against notification dated 6.12.2010 on the basis of merit for having secured 290 marks in SSC. Applicant joined duty on 14.3.2011 and the appointment letter was issued on 6.2.2012 with retrospective effect from 14.3.2011. Later, on 19.12.2014 the services of the applicant were terminated based on the order of the 3rd /4th respondents'. Aggrieved over the same, the OA is filed.

4. The contentions of the applicant are that after having served for more than 3 years, the applicant is deemed to have been made permanent as per GDS (C& E) Rules, 2011. The 3rd and 4th respondents have directed the 5th respondent, who is the Appointing authority for the applicant, in regard to discharge of statutory duties which is not permitted under law. Principles of Natural Justice have not been followed. Under pressure from the 3rd respondent, the 4th respondent directed the 5th respondent to terminate the services of the applicant and hence, the memo dated 19.12.2014. 4th respondent can review the appointment by issuing notice and cannot

exercise the powers of the 5th respondent. Thus, it is obvious that the 5th respondent has not acted independently. Four inspections of the BO were done and nothing adverse was recorded in regard to the appointment of the applicant.



5. *Per contra*, respondents state that there were complaints against the appointing authority alleging irregularities in GDS selection. Respondents found that the applications of the candidates, who got higher marks were rejected and hence, review of the appointment of the applicant was taken up as per Rule 4(3) of GDS (C& E) Rules 2011 and his services terminated. The applicant has not availed the alternative remedy of appeal, Revision, and review as provided under the rules.

6. Heard both the counsel and perused the pleadings on record and the judgments cited by the applicant.

7. I. It is not in dispute that the applicant was selected on 14.03.2011 and appointment order was issued on 6.2.2012 with retrospective effect. However, respondents received complaints against the alleged irregularities committed in the selection of Grameen Dak Sewaks by the concerned appointing authority. Table given hereunder portrays the marks obtained by the candidates who applied for the post:

Order of Merit	Application Number	Name of the candidate	Marks in SSC w/o. Hindi
1	14	S. Moulali	332
2	03	K.B. Khadar Basha	290
3	11	B. Ramesh Babu	248
4	08	R. Srihari	264 (compartmental)

Meritorious candidate with 332 marks was ignored and the applicant with less marks of 290 was selected. This has led to complaints and the need to review.



II. Respondents assert that the candidature of candidates with higher marks was rejected on flimsy grounds like not filling up certain columns, non attestation by Gazetted officer etc. This has led to review of the selection of the applicant by the respondents and his eventual termination. However, respondents have not revealed as to who inquired and what was the outcome. By the time termination was ordered, the applicant had already rendered 3 years of service, which the applicant claims is adequate enough to consider him as deemed to have been made as permanent. If this be so, then due process of disciplinary inquiry has to be followed. The reply statement has not touched upon this aspect. Nevertheless, it would suffice to state that there are certain well laid down procedures, which have to be followed by the respondents in doing away with the service of an employee. More so, when a review of a selection made is done. It is the non-adherence of the rules, which has been challenged in the OA. However, before, approaching the Tribunal, applicant had alternative remedies like preferring an appeal under Rule 13, filing a Revision under Rule 19 and seeking a Review under Rule 20 of the GDS (Conduct & Engagement) Rules. It would have been appropriate for the applicant to at least make an appeal for consideration by the authority concerned. Availing the alternative remedies may help in resolution of the grievance early and if not, the reasons for non consideration would be elaborately clear to enable the Tribunal to take an informed decision.

Absence of such vital information should not give leeway for injustice to creep in. Without availing the alternative remedies, filing the OA would not effectively further the cause of the applicant since the scope to redress the grievance by the respondents is frittered away. Therefore, in the fitness of things, we direct the applicant to file an appeal stating the rules and the law in support of his contentions to the competent authority within a period of 15 days from the date of receipt of this order, and on receipt of the same, it shall be disposed by the said authority within a period of 3 months from the date of the receipt, keeping in view the judgments appended to the OA.



III. We also need to observe that the respondents have not indicated as to what was the outcome of the inquiry into the selection irregularities. Were they established and if so, the action against the Appointing Authority who committed the irregularities and whether there was any collusion of the selected candidates with the appointing authority. Is it the case of only the applicant which has come under review or other cases too had to be reviewed in a manner as has been done in respect of the applicant. Unless a total picture is presented, it would not be possible for the Tribunal to take a fair view of the case. Employment is a sensitive issue and no one should obtain employment by fraudulent means nor an authority can offer employment by adopting fraudulent practices. Fraud vitiates the entire process. Responsibility has, thus, to be fixed against all those involved, if the selections made were really found to be irregular and not just the applicant. Given the fact that the services of the applicant have been terminated, it would be appropriate to attend to the dispute early and hence the direction to dispose the appeal in accordance with rules/law. The

Chief PMG, Andhra Pradesh Postal Circle, shall monitor and ensure that necessary action as deemed fit in the matter as observed above, is taken by those concerned within 3 months in all respects as per rules/law. Medicine has to be given to cure the disease and just not the symptoms. The appellate authority's order, needless to state, shall be a reasoned and speaking order.



IV. With the above directions, the OA is disposed of with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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