

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/01173/2014

HYDERABAD, this the 12th day of October, 2020



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

P.Raji Reddy S/o P.Madhusudhana Reddy,
Aged about 50 years, working as GDS/MD (terminated),
Centenary Colony S.O-505 212, Peddapally Division,
Karimnagar District.

...Applicant

(By Advocate : Mr.B.Gurudas)

Vs.

1. The Union of India, rep by :
The Director General, Posts,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-1.
2. The Chief Postmaster General,
A.P.Circle, Hyderabad.
3. The Postmaster General,
Hyderabad Region, Hyderabad-500 001.
4. The Superintendent of Post Offices,
Peddapally Division, Peddapalli-505 172,
District Karimnagar.
5. The Inspector, Posts,
Peddapally Sub-Division, Peddapalli-505 172,
District Karimnagar.

....Respondents

(By Advocate : Mr.M.Venkata Swamy, Addl.CGSC)

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

Through Video Conferencing:

2. The O.A. has been filed against the impugned order dated 19.7.2007 rejecting the claim of the applicant in accommodating him in any Grameen Dak Sevak post.

3. The brief facts of the case are that the applicant has rendered 13 $\frac{1}{2}$ years of service on provisional basis as provided under D.G letter dated 18.5.1979 and Circular dated 30.12.1999 in the post of GDS MD in Centenary Colony Sub Post Office. The applicant is eligible for regularization of services as per DG instructions. Instead of doing so, respondents have taken action to remove him from service. Hence, the O.A.

4. The contentions of the applicant are that he was initially appointed as EDDA on 23.7.1997 on provisional basis against a clear vacancy. He has completed 13 $\frac{1}{2}$ years of service as a provisional candidate in the post of GDS MD. Sub para 17 of the Method of Recruitment of Grameena Dak Sevaks is in his favour. The claim of the applicant is that the respondents should make efforts to give alternative appointment to ED Agents who are appointed provisionally and subsequently discharged from duties due to administrative reasons, if at the time of discharge they have put in not less than 3 years of continuous approved service. The applicant claims that he has put in 13 $\frac{1}{2}$ years of service and, therefore, he has to be provided alternative appointment under the said clause. The applicant has

also cited DGP&T letters dated 18.5.1979 & 30.12.1999 to support his contentions. The above facts were brought to the notice of the respondents vide representation dated 16.2.2011 and followed it up by further representations. The impugned order dated 19.7.2011 was issued wherein it was stated that the applicant does not come under the purview of thrown out GDS and hence cannot be accommodated as prayed.



5(i) Respondents stated in the reply statement that the applicant was appointed as GDS Mail Deliverer in Centenary Colony Sub Post Office on 21.7.1997 on provisional basis. To fill up the post on regular basis, the 5th respondent issued a paper notification on 22.6.1998 reserving the post to SC community with a condition that if there are no eligible candidates, it will be reserved for ST/OBC/SC candidates. Aggrieved by the said notification, applicant filed O.A. No.1086/1998 and it was disposed of by the Tribunal, directing respondents to examine whether enough representation of SC/ST/OBC candidates in the ED cadre has been ensured, as per the provisions of the Constitution and to inform the applicant after verifying the same. As per the direction of the Tribunal, respondents gave a reply to the applicant on 26.2.2000. Thereafter, applicant filed O.A. No.462/2000, challenging the letter of the respondents dated 26.2.2000. Tribunal dismissed the O.A. on 5.10.2000, upholding the decision of the respondents. Aggrieved, applicant approached Hon'ble High Court in W.P. No.20636/2000. Hon'ble High Court ordered to stay all further proceedings in pursuance of the notification dated 22.6.1998 in WPMP No.26203/2000. Finally, Hon'ble High Court dismissed the Writ Petition on 18.8.2010. Till the dismissal of

the Writ Petition, applicant was allowed to continue in the post. After the dismissal of the Writ Petition, his services were terminated on 27.12.2010. Thus, based on the orders of the Tribunal and the Hon'ble High Court, applicant was allowed to continue in the post from 23.7.1997 till 27.12.2010. Applicant represented to treat him as a thrown out candidate and provide alternative appointment. Representation was disposed of by the respondents on 19.7.2011, rejecting the request. Consequently, the present O.A. has been filed which has to be dismissed since the Tribunal has already turned down his request in O.A. No.1086/1998 & O.A. No.462/2000 and also by the Hon'ble High Court in the Writ Petition referred to. Moreover, the subject matter is not within the jurisdiction of the Tribunal as the applicant is neither appointed to any civil post under the Union. He was merely appointed as GDS MD on provisional basis. The O.A. is also barred by limitation as the services of the applicant were terminated on 27.12.2010 and the present O.A. is filed on 27.9.2014 after a gap of three years. The representation referred to by the applicant is not a statutory appeal to be disposed of as per law.

(ii) Applicant has also filed a rejoinder and we have gone through the contents carefully.

6. Heard Sri B. Gurudas, learned counsel for the applicant and Sri M. Venkata Swamy, learned counsel for the respondents, and perused the pleadings on record.

7. I. As seen from the facts of the case, applicant was appointed on 21.7.1997 to the post of GDS MD on provisional basis. Respondents

confirmed that the applicant was appointed on a provisional basis but the regular process of selection was not adopted. Therefore, in order to fill up the post under question, respondents have issued a notification on 22.6.1998. As the applicant was working in the said post and being aggrieved by the notification, he approached the Tribunal in O.A. No.1086/1998 wherein the Tribunal directed the respondents to examine as to whether there was adequate representation of SC/ST/OBC candidates. As per the direction of the Tribunal, respondents examined and gave a suitable reply to the applicant. Applicant once again approached the Tribunal in O.A. No.462/2000 which was dismissed, upholding the action of the respondents. Thereafter the applicant carried the matter to the Hon^{ble} High Court of A.P. wherein initially an interim order was passed, directing the respondents to keep on hold further action against notification dated 22.6.1998 but finally dismissed the Writ Petition on 18.8.2010. During the period of adjudication of the dispute in the Tribunal as well as by the Hon^{ble} High Court, applicant was allowed to continue in service for the period from 23.7.1997 to 27.12.2010. Hence, it is evident that the applicant was allowed to render the service as claimed by him by virtue of the orders of the judicial fora. Applicant has cited sub rule 17 and DG orders in the years 1979 & 1999, to support his contention, regarding the need to provide alternative appointment to employees who were appointed on provisional basis, when they are displaced due to administrative reasons. The case of the applicant would not come under this provision since he was not selected to work on regular basis after following the regular process as is prescribed under the relevant rules of the respondent's organization. The appointment made was purely



provisional without adhering to the recruitment norms, and that too, on a temporary basis. It is pertinent to note that the services of the applicant were not terminated for administrative reasons to declare him as a surplus ED. Applicant could continue in service for 13 long years because of the intervention of the Tribunal and the Hon^{ble} High Court at the appropriate time. Moreover, dispute raised by him has been examined in OA No.1086/1998 as well as OA No.462/2000 and, therefore, raising the same issue again in the present O.A. would not give any room for granting the relief sought. In fact, Hon^{ble} High Court of A.P. had also dismissed his Writ Petition No.20636/2000 on 18.8.2010. Thus, there is nothing left in the O.A. for the Tribunal to adjudicate.

II. Learned counsel for the applicant stated that the applicant had rendered 13 ½ years of service in the department and therefore his request for providing alternative appointment, at least, should have been gone into by the respondents. He has also submitted that as per DOPT Rules, the services of any casual labour, who has rendered 10 years of service, should be regularized. Moreover, the judgement of the Hon^{ble} Supreme Court in *Uma Devi*'s case also applies to the applicant's case since he had rendered nearly 13 ½ years of service. It is an undeniable fact that the applicant had rendered 13 ½ years of service. However, the major part of the service rendered is because of the intervention of the Tribunal and by virtue of the interim order passed by the Hon^{ble} High Court. The judgement of the Hon^{ble} Apex Court in *Uma Devi*'s case makes it clear that the service rendered due to the intervention of the judicial fora should not be counted. Besides the said judgement also makes it explicit that in

those cases where the initial recruitment was not done as per recruitment rules, they should not be entertained. Such appointments are illegal but not irregular. In the instant case, the applicant was neither appointed through regular process to be adopted for appointing on provisional basis nor did he render 10 years of service without the intervention of the judicial fora. Therefore, the pleadings of the learned counsel for the applicant are not tenable for reasons as at above.



In view of the above circumstances, we do not find any ground to intervene on behalf of the applicant. Therefore, the O.A. has to be necessarily dismissed. Accordingly, the O.A. is dismissed with no order as to costs.

(B.V.SUDHAKAR)

ADMINISTRATIVE MEMBER

(ASHISH KALIA)

JUDICIAL MEMBER

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