

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

MA/21/1023/2015 in OA/20/1451/2014 & OA/20/1451/2014

HYDERABAD, this the 17th day of December, 2020



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

Y. Sundar Raj, S/o. Y. Ramaiah,
Aged about 37 years,
Occ: Working as Substitute GDS MC,
at Ravulapally BO a/w Kotapally S.O.
under Vikarabad HO,
R/o. N.K. Pally Ho, Bantaram Mandal,
Ranga Reddy District - 501 106,
Secunderabad Division.

...Applicant

(By Advocate : Sri M. Venkanna)

Vs.

1. Union of India rep. by its
Secretary, Government of India,
Ministry of Communications and I.T.,
Department of Posts India,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
2. The Chief Postmaster General,
A.P. Circle, Abids, Hyderabad – 500 001.
3. The Senior Superintendent of Post Office,
Secunderabad Division,
Gandhi Nagar, Secunderabad – 500 080.
4. The Inspector of Post,
Tandur Sub Division, Tandur – 501 141.

....Respondents

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

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

Through Video Conferencing:



2. The OA is filed seeking appointment as Grameen Dak Sewak.

3. Brief facts of the case are that the applicant worked against leave and retirement vacancies. From October 2008 applicant has been working in the vacant GDS MC post at Ravulpally BO. Though he has been working for many years, he has not been regularly appointed to a GDS post and hence, the OA.

4. The contentions of the applicant are that he passed X class in 1993 and he has been appointed as a substitute in GDS substitute vacancy since October 2008 and is testified by the acquittance roll enclosed. Besides, he has been engaged against leave/retirement vacancies. Respondents issuing notification dated 14.11.2014 to fill up the GDSMC post would make him jobless and age-wise, he is disqualified to apply for any other post. Applicant cited the order of the Coordinate Bench of this Tribunal at Allahabad in OAs 286 & 287 of 2006 in support of his contentions. Applicant further claims that he has been appointed on a provisional basis and he worked for 3 years.

5. Respondents in the reply statement state that the applicant was arranged as a substitute in GDS MC by GDS BPM Ravulapalli Bo who was holding the additional charge of the post of GDS MC Ravulapalli.

Applicant worked as substitute for 25 months and was never appointed as GDS Ravulapalli or on a provisional basis to work for 3 years as claimed. Notification for filling up the post of GDS MC Ravulapalli was issued on 14.11.2014 which has been identified as a OC vacancy and the post was filled up on 17.12.2014 and subsequently, the interim order dated 16.12.2014 to continue the applicant in the post was received.



6. Heard both the counsel and perused the pleadings on record.

7. I. Applicant has been working against leave/retirement vacancies and he claims that he has been working as substitute in GDS MC post of Ravulapalli BO from October 2008. Respondents state that the cited GDS MC vacancy arose only in 2014 and not from 2008. To fill up the vacancy, respondents have issued the notification dated 14.11.2014 and the selection was completed by 17.12.2014 and a candidate by name Ms. S. Aruna was selected. The interim order of the Tribunal dated 16.12.2014 was received by the respondents thereafter. The applicant has not contested this fact by a rejoinder. The vacancy was identified for OC and the applicant belongs to the SC category.

II. Applicant has admitted that he was working as a substitute against leave/retirement vacancies and GDS MC Ravulapalli BO was one such post against which he has worked. The SDI's inspection report is only an indication of the post being vacant and the fact that the applicant was working as a substitute. This is also substantiated by the Acquittance rolls.



However, by working as a substitute, the applicant has no right to be appointed on a regular basis as GDS. Hon'ble Supreme Court in *Devika Guha v Union of India* has observed that substitute has no right to be regularised. Therefore, in the context of the observation of the Hon'ble Supreme Court, the verdicts of the Hon'ble Allahabad Bench in OAs 286 & 287 of 2006 relied upon by the applicant, would not render any assistance to him. This Tribunal has dismissed similar claims made in OA 820/2009 on 27.7.2010 and in OA 1332 of 2013 on 31.10.2013. Hon'ble Delhi High Court in CWP Nos.8615/2004 & 9282/2004 on 8.7.2004, has held that regularisation of services of provisionally appointed Dak Sewaks has to be done through the regular selection process as per rules. Near home, Hon'ble High Court of A.P. in 2001 (1) ALT 366 has held that part time employees, adhoc employees and NMRs have no legal right to continue in the absence of statutory rules supporting their claim. Applicant has not shown any rule to claim that past services as substitute are to be considered to grant him appointment on a regular basis as GDS. On the contrary, the letter issued by the respondents on 29.12.2000 based on the judgments of Hon'ble Bangalore Bench of this Tribunal and the Hon'ble High Court of Karnataka has made it abundantly clear that the substitutes have no legal right for regularisation. It is important to note that the applicant was not arranged as substitute by the respondents but by another employee Sri Y. Sadanandam who was holding additional charge of the post in question, on his own responsibility. The post has to be filled by adopting the regular process of issuing the advertisement and selecting the meritorious which the respondents did. The action of the respondents is in tune with the observation of the Hon'ble Supreme Court in *Uma Devi*.

III. In view of the aforesaid circumstances, we do not find any merit in the OA and hence, is dismissed, with no order as to costs. MA No. 1023/2015 stands disposed.



(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/