

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.12/2013

Dated this Thursday the 5th day of March, 2020

CORAM: Dr. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Uttam Vishnu Chavan
Age 43 years
Post held to Gramin Dak Sevak
Branch Post Master
Chavanwadi Branch Post Office
(Tal. Patan Satara
(Upto 16.10.2008)
Chaphal Sub Post
Residing at Chavanwadi BO
(via Chaphal sub Post Office)
Tal. Patan Dist. Satara
(Karad Head Post) 415 520
(Dist. Satara) Maharashtra State ... **Applicant**
(**By Advocate Shri A.V. Shinde**)

VERSUS

1. Union of India
Through Director of Postal
Services, Pune Region
O/o PMG Pune Region
Admin Bldg., Main Road Camp
At PO Pune HPO (Dist Pune)
- 411 001.
2. Postmaster, General
Pune Region
Near Central Telegraph Office
O/o PMG Pune Region,
Administrative Building, Main Road
Camp, At PO Pune HPO
(Dist. Pune) 411 001.
3. Sr. Superintendent of Post Office
Satara Division, Admin Building
Powai Naka, Camp at PO
Satara HO 4415001. ... **Respondents**

(**By Advocate Shri A.M. Sethna**)

ORDER

PER: RAVINDER KAUR, MEMBER (J)

The present OA has been filed by the applicant on 28.09.2012 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8(a) This Hon'ble Tribunal be pleased to quash and set aside Revisional Order dated 17.12.2011 (A1(a) Termination Order dated 16.10.2008 (A1(b))

Legal Provision

Rule 4(3) (c) of GDS (C&E) Rules 2001 violated appointed authority who became functus officio reviewed his own order instead of placing papers before higher authority.

(b) Hold and declare that applicant being highest in Merit Chart dated 19.04.2010 stood selected and further direct respondents finalise selection process started on 26.6.2009 (& kept pending till todate) and complete formalities by declaring applicant as selected.

(c) Direct respondents to reinstate the applicant with all consequently benefits."

2. The applicant has not pressed the relief claimed vide para 8(a) of the OA in terms of order dated 11.01.2013.

3. The brief facts are that the applicant was selected for the post of Incharge, Panchayat Sanchar Seva Kendra at Chavanwadi under Nanegaon Kh. Branch Post Office w.e.f. 07.11.2001 till 30.12.2003. Thereafter, he was appointed

provisionally as Branch Post Master till he was regularly appointed. He was issued show cause notices dated 23.11.2007 and 07.01.2008 respectively by the respondent No.1 and his services were terminated w.e.f. 16.10.2008. The applicant claims that respondent No.1 had failed to comply with Rule 4(3) of GDS (C&E) Rules, 2001. He filed Review/Revision Petition but the same was dismissed vide order dated 17.12.2011.

4. Vide relief clause 8(a), the applicant had originally sought quashing and setting aside of both the above noted orders dated 17.12.2011 (Annex A-1(a) and 16.10.2008 (Annex A1(b))). However, in terms of daily order dated 11.01.2013, he has not pressed the said relief.

5. Qua relief claimed vide para 8(b), the applicant claims that the respondent No.1 issued notification dated 26.06.2009 (Annex A-8) calling for applications from the candidates for filling up post of Branch Post master, Chavanwadi. The applicant applied in pursuance to it and was in merit list at serial No.4 (Annex A-10). As per column 6 (%marks in SSC) of the said document, he had scored 54.85% marks in SSC Examination, higher than other candidates

mentioned in the said list. On this basis, he seeks direction to the respondents to declare that being highest scorer in merit chart dated 19.04.2010 (Annexure A-10), he stood selected for the post of Branch Post Master, Chavanwadi and also to direct the respondents to finalise selection process initiated on 26.06.2009 .

6. The respondents in their reply affidavit have stated that though the process of appointment for the post of Branch ~~Post~~ Master was initiated vide Notification dated 26.06.2009 but it was held back since the applicant had filed OA No.633/2008 challenging the order of his termination. They have specifically denied that the applicant was ever appointed formally as GDS (BPM) Chavanwadi w.e.f 31.12.2003. However, it is admitted that he was so appointed provisionally till regularisation and thus he worked on provisional basis without any pre-appointment formalities being completed. The services of the applicant were terminated by issuing show cause notices as per Rule 8 GDS conduct Rules, (Conduct and Services Rules) 2011 which issue has already attained finality vide OA

No.633/2008 disposed of by this Tribunal.

7. It is once again reiterated that the process of filling up the post of GDS(BPM), Chavanwadi was not finalised due to pendency of OA No.633/2008. Therefore, the OA lacks in merit and deserves to be dismissed.

8. We have heard at length Shri A.V. Shinde, learned counsel for the applicant and Shri A.M. Sethna, learned counsel for the respondents and have carefully considered the facts, circumstances, law points and rival contentions in the case. We have carefully examined the pleadings and Annexes filed by the parties.

9. During the arguments, the respondents' counsel has drawn our attention to the short affidavit dated 21.01.2014 filed by the respondents on record whereby they have admitted that the applicant had applied for the post of Branch Post Master, Chavanwadi in response to the Notification issued on 26.06.2009 but the recruitment process was not completed and finalised due to filing of OA No.633/2008 by the applicant challenging his termination order. The OA was finally heard and disposed of on 21.10.2011 issuing

directions to the respondents to consider the Review Petition dated 31.10.2008 filed by the applicant against the order of his termination. The Review Petition was rejected in February, 2012.

10. The process of selection for the post of BPM, Chavanwadi vide Advertisement dated 26.06.2009 was cancelled and afresh notification dated 07.12.2012 was issued for filling up of the said post. It is observed that the applicant vide present OA is seeking declaration that in terms of merit chart dated 19.04.2010, he stood selected in pursuance to the Advertisement dated 26.06.2009 and directions to the respondents to finalise the selection process initiated vide Notification dated 26.06.2009. It is observed that in view of the short affidavit dated 21.01.2014 filed by respondents, the selection process initiated vide Notification dated 26.06.2009 for filling up the post of Branch Post Master was cancelled. Thereafter the respondents issued fresh Notification 07.12.2012 for filling up the post of Branch Post Master, Chavanwadi.

11. In these circumstances, the claim of the applicant in pursuance to the Notification dated 26.06.2009 which has already been cancelled, cannot be entertained. Admittedly, the applicant has not applied afresh in pursuance to the Notification/Advertisement dated 07.12.2012.

12. In these circumstances, the claim of the applicant vide relief 8(b) has been rendered *infructuous*. Apart from this, it also goes without saying that the OA of the applicant is highly belated and is suffering from delay and laches for which there is no explanation on record.

13. In these facts and circumstances of the case, the OA being *infructuous* is dismissed. No order as to costs.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

ma.

JD
09/03/2020

