



**Central Administrative Tribunal  
Allahabad Bench, Allahabad**

**O.A. No.209/2017**

Order reserved on : 18.08.2021

Order pronounced on : 14.09.2021

(Through Video Conferencing)

**Hon'ble Mr. Tarun Shridhar, Member (A)  
Hon'ble Mrs. Pratima K. Gupta, Member (J)**

Shilpi Devi  
Daughter of Late Brijlal,  
Resident of village Sanaya Salvadan,  
Post Jindaura,  
Tehsil, Bhognipur,  
District Kanpur Dehat.

.... Applicants

(By Advocate: Shri Ajay Kumar Yadav for Shri P.S.Yadav)

Versus

1. Union of India  
through Ministry of Communication,  
New Delhi.
2. Chief Post Master Kanpur Head Quarter  
Kanpur.
3. Superintendent of Post Offices  
Kanpur (M) Division  
Kanpur-208001.
4. Superintendent Post Master Baror  
Kanpur Dehat.

.... Respondents

(Present: None)

**ORDER**

**By Hon'ble Mrs. Pratima K. Gupta, Member (J)**

The applicant has filed this OA against the order dated 29.06.2016 passed by respondent No.4 whereby the applicant's services have been terminated. The applicant has sought the following main reliefs:



"A. To issue a writ order or direction in the nature of certiorari to quash the order dated 29.06.2016 passed by respondent no.3.

B. To issue a writ order or direction in the nature of mandamus commanding the respondents to reinstate the petitioner and pay her salary on the aforesaid post."

2. The factual matrix of the case is as follows. The applicant was appointed as Gramin Dak Sewak Branch Postmaster (GDS BPM in short) on 25.10.2013. She has been continued on the said post and has unblemished service record. Applicant claims that she has been terminated vide order dated 29.06.2016 without being issued any show cause notice.

3. Counter affidavit has been filed by the respondents. It is submitted that applicant was appointed as GDS after participating in the selection process advertised by the respondents under the GDS (Conduct and Engagement) Rules, 2011. She joined as GDS at Kanpur Dehat. Thereafter, the respondents reviewed the cases related to the appointment of GDS and based on the relevant instructions, the appointing authority issued the impugned order dated 29.06.2016 (Annexure A-1) terminating the services of the applicant. It is further submitted that the service of the applicant has been terminated in accordance with the provisions of Rule 8(2) of GDS (Conduct and Engagement) Rules, 2011 and due amount of basic Time Related Continuity allowances plus dearness allowances as admissible to the applicant, in lieu of Show Cause Notice of



one month also paid to the applicant. A copy of para 4 of the method of recruitment, contained in Swamy's Compilation Gramin Dak Sewak is also annexed (Annexure CA-7) with the counter affidavit.

4. Applicant has filed the rejoinder, reiterating her pleas taken in the OA. She has also relied upon a judgment passed by the Tribunal viz. **Sushil Kumar vs. UOI and batch cases** - OA No.330/862/2016 and batch cases decided by Allahabad Bench of this Tribunal on 06.02.2019.

5. Heard Sh. Ajay Kumar Yadav for Sh. P.S.Yadav, learned counsel for applicant. None appeared on behalf of the respondents. Learned counsels for parties have submitted their written submissions, which have also been taken into consideration while passing the order.

6. After going through the pleadings on record and on perusal of the impugned order, it emerges that no Show Cause Notice has been issued before passing the impugned order. Therefore, there is gross violation of principles of natural justice.

6.1 As regards the judgment relied upon by the applicant in **Sushil Kumar and connected OAs** (supra), dated 06.02.2019 of this Tribunal. It is seen that in the judgment



this Tribunal relied upon **Birbal vs. UOI**, OA No.742/2016 dated on 14.07.2017 which was challenged before the Hon'ble High Court of Allahabad in WP (C) No.4986/2017 – UOI vs. Archana Mishra and clubbed with other WPs. This petition was dismissed by Hon'ble High Court by a common order dated 30.04.2018. Accordingly the benefit of this judgment has been extended to the applicants in **Sushil Kumar** (supra). Relevant para of the judgment reads as under:

"31. Xxx xxx in identical factual situation, the services of some of the GDS had been terminated and the issue was agitated before this Tribunal by concerned GDSs. OA No. 742 of 2016 along with other OA's with similar facts have been considered by this Tribunal and the same has been disposed of on merit vide order dated 14.07.2017 in the case of Birbal Vs Union of India and others. In the aforesaid cases, the GDS employees concerned were reinstated in service with consequential benefits. The respondents challenged the order dated 14.07.2017 passed by this Tribunal before Hon'ble Allahabad High Court by filing Writ-A No 49864 of 2017 – Union of India vs Archana Mishra clubbed with other similar writ petitions. These petitions have been dismissed by the Hon'ble Allahabad High Court by common order dated 30.04.2018 upholding the order dated 14.07.2017 of this Tribunal. Copy of the orders dated 14.07.2017 and 30.04.2018 have been filed by the learned counsel."

## 6.2 This Tribunal allowed the OA passing following orders:

38. In view of the findings of this Tribunal and Hon'ble High Court as discussed above, it was appropriate on the part of the respondents to initiate action against the applicants under the Rule 4 (3) of the GDS (Conduct and Engagement) Rules, 2011, if the authorities have noticed irregularities in the appointment of the applicants as GDS. The action to terminate services of the applicants under Rule-8 of the GDS (Conduct and Engagement) Rules, 2011 cannot be taken in these circumstances in view of the observations of Hon'ble Allahabad High Court as discussed above. For the same reasons, the impugned order cannot be treated as termination simplicitor."



8. In view of the above, on perusal of the facts it is clear that the facts of this case are identical to the facts decided by this Tribunal in **Sushil Kumar** (supra). Further it may not be out of place to mention here that the relied upon judgment in **Sushil Kumar** (supra) has been confirmed by Hon'ble High Court of Allahabad and therefore, the decision of this Tribunal passed in OA No.742/2016 is affirmed. It is settled law that the judgment passed by the Coordinate Bench is binding on us particularly when the facts are not in dispute.

9. Accordingly, the OA is allowed. The impugned order dated 29.06.2016 is quashed and set aside. The respondents are directed to reinstate the applicant to the post of GDS with all consequential benefits i.e., full TRCA for the period she was kept out of service because of the impugned order. In case her place has been filled up by another person, then the applicant should be accommodated in any other vacant post of GDS. This order shall be complied within a period of six weeks from the date of receipt of a copy of this order. The liberty is granted to the respondents to proceed against the applicant under Rule 4 (3) of the GDS (Conduct and Engagement) Rules, 2011 in the light of the order dated 06.02.2019 passed by Allahabad Bench of this Tribunal in view of allegations of serious irregularities alleged in the process of the applicant's recruitment. It is directed that necessary orders for reinstatement be issued accordingly. Arrears of TRCA be disbursed to the applicant within two



months from the date of her reinstatement. Liberty is given to the respondents to proceed against the applicant falling under category (1) and (2) as mentioned in order dated 06.02.2019. No costs.

Hon'ble Shri Tarun Shridhar, Member (Administrative) has consented to this order through email.

**(Pratima K. Gupta)**  
**Member (J)**

**( Tarun Shridhar )**  
**Member (A)**

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