

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 040/00330/2019

Date of Order: This, the 09<sup>th</sup> Day of March, 2021

**THE HON'BLE SMT. MANJULA DAS, MEMBER (J)**

**THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)**



Sri Bimal Gogoi, aged about 43 years  
 S/O Sri Premo Gogoi,  
 Resident of Village-Ghinai  
 P.O. - Ghinai, PIN - 786621  
 District - Dibrugarh, Assam.

**... Applicant**

- Versus -

1. The Union of India  
 Represented by the Secretary  
 Ministry of Communication  
 Department of Posts, Dak Bhawan  
 Sansad Marg, New Delhi-110001.
2. The Chief Post Master General  
 Assam Circle, Meghdoott Bhawan  
 Guwahati, Assam-781001.
3. The Post Master General  
 Dibrugarh Division, Dibrugarh  
 Assam-786001.
4. The Superintendent of Post Offices  
 Dibrugarh Division, Dibrugarh,  
 Assam-786001.

**O.A. No. 040/330/2019**

**...Respondents.**

For the Applicant : Sri P. Mahanta &  
Sri R.B. Gohain

For the Respondents : Sri R. Hazarika, Addl. CGSC

**Date of Hearing: 24.02.2021**      **Date of Order: 09.03.2021**

**O R D E R**

**NEKKHOMANG NEIHSIAL, MEMBER (A):-**



This O.A. has been filed by the applicant asking for the following reliefs:-

- “8.(a) Set aside and quash the advertisement dated 05.08.2019 so far as it relates to the post held by the applicant i.e GDS BPM, Ghinai BO under Dibrugarh Division of Assam Circle.
- (b) Set aside and quash the impugned purported order of termination dated 15.05.2014 issued by the Chief Post Master General, Assam Circle.
- (c) Direct the respondent authorities to reinstate the applicant to the post of GDS BPM, Ghinai BO under Dibrugarh Division of Assam Circle.
- (d) Any other relief(S) that the applicant is entitled to in the facts and circumstances of the instant case as may be deemed fit and proper by this Hon'ble Tribunal.”

2. The respondents filed their written statement on 21.01.2020. Amongst others they have highlighted that temporary GDS of less than 3 years of service is liable to



be terminated any time by giving a notice in writing either by the Sevak to the Appointing Authority or by the Appointing Authority to the Sevak with notice period of one month under Rule 8(2) of GDS (Conduct and Employment Rules, [now GDS (Conduct and Engagement) Rules, 2011]. They also highlighted that as per directions of this Tribunal dated 22.08.2008 in O.A. No. 153/2008, the competent authority i.e. the Chief Postmaster General, Assam Circle, Guwahati has examined the issue on the representation/appeal of the applicant and issued speaking order under No. VIG/5/VIII/08 dated 23.10.2008 and upheld the termination of the services of the applicant. They also highlighted at para 17 of their written statement that application for the post of GDS was not made in accordance with the rules. They also claimed that the applicant himself admitted the error made by him while submitting the application for appointment. He has not denied that he has not submitted the application through registered post. These have been duly reflected in the rejection on the appeal of the applicant i.e.

speaking order of the competent authority dated 23.10.2008 and subsequently on 15.05.2014. They also submitted further that speaking order of 15.05.2014 was in continuation of the speaking order dated 23.10.2008 and not contradictory but for further disclosure of the reason for terminating his service as the applicant was not satisfied with the previous speaking order. Moreover, the applicant has not challenged these speaking orders for last 5 years.



3. During hearing, Sri P. Mahanta, learned counsel appearing for the applicant basically focussed on the shifting reasons for termination of the services of the applicant by respondent authorities in their different speaking orders. This only confirms the malafide intention of the respondent authorities to somehow reject the application/appal of the applicant to remain in the services.

4. Sri R. Hazarika, learned Addl. CGSC appearing on behalf of the respondents pointed out that as mandatory to fill up in the application, the applicant did



not fill up any information in columns 10 and 11 in his application dated 31.10.2007. There was also no indication when and how his application was received by the respondent authorities. The applicant was illegally recruited and therefore, there was no any reason to allow him to continue in the service. The very fact that he was being given engagement without knowing the fact of his application is against the interest of other prospective candidates who also could also have got the job as per rules and this is against principles of natural justice in the context of recruiting candidate from the open market.

5. In addition to giving hearing to both the parties, we also have gone through the papers and documents submitted by them. It is seen from the records that earlier O.A. No. 153/2008 was disposed of by this Tribunal vide order dated 22.08.2008 by directing the respondent authorities to treat a copy of the said O.A. as a representation/appeal and issue a reasoned and speaking order to the applicant. In compliance of the said direction, the respondent authorities vide speaking

order No. VIG/5/VIII/08 dated 23.10.2008 examined the issue and disposed of the representation rejecting the case of the applicant. In the speaking order, amongst others, they have indicated that his appointment was not made in accordance with the rules which have resulted in depriving of more deserving candidates. They also indicated that termination of service was strictly followed as provided in the rules and orders on the subject.



6. It is further noted that on 14.08.2009, this Tribunal had passed a common order in respect of O.A. No. 171, 225, 226, 227, 228 229 and 230 of 2008. The O.A. No. 230/2008 was pertaining to the present applicant i.e. Shri Bimal Gogoi. In the common order dated 14.08.2009, this Tribunal had passed order as under:-

*"Direction is issued to the Respondents to disclose clearly the reasons for termination (with all materials on the basis of which such decision was taken) to the Applicants and to provide adequate opportunity to them to make effective representations; which should receive consideration of the Respondent No. 2, if necessary, by giving personal hearing of the Applicants and on such consideration the Respondent No. 2 should pass a reasoned order. Till such orders are passed by the*

Respondent No. 2, status quo of the Applicants are to be maintained."

7. In compliance of the aforesaid direction, the respondent authorities issued a speaking order under No. VIG/5/XXV/2008 dated 15.05.2014 wherein they have indicated again that as per public notification, application received without filling up the required information in the columns was not to be entertained and violative of public notification and termination notice issued by cancelling the candidature of Bimal Gogoi was considered to be fair and just. Accordingly, termination order was upheld by the competent authority.

8. After carefully going through the history of the case and also documents made available to this court as stated above, we have noticed that the allegation of Sri P. Mahanta, learned counsel for the applicant that the respondent authorities are shifting reasons for rejection of candidature/appointment of the applicant from time to time is not borne out by any facts or materials on records. As cited above, it is observed that





the applicant was appointed irregularly against the existing rules at that time without filling up the information as required in columns 10 & 11 in his application. Moreover, the manner in which his application was received could not be verified or authenticated. If such appointment had been obtained by any individual by manipulating with the assistance of lower functionary if any, against the public notification, the respondent authorities are definitely on obligation to examine and take suitable action as necessary. In this present case, since the respondent authorities after examining the process of selection, has found that there were irregularities in the selection/appointment, they have terminated the appointment of the applicant in accordance with the rules of the department.

9. Since the issue of fairness under the principles of natural justice has to be applied in the relevant context, in the instant case, in the context of recruitment where all eligible candidates from the open market are entitled to apply and get selected, we found that the action on the part of the respondent authorities to

terminate the services of the applicant as per rules of the department is not denial of fairness and justice. Accordingly, after due consideration, we found that the present O.A. devoid of merit and liable to be dismissed.

10. Accordingly, O.A. is hereby dismissed. No order as to costs.



**(NEKKHOMANG NEIHSIAL)  
MEMBER (A)**

**(MANJULA DAS)  
MEMBER (J)**

**PB**

**O.A. No. 040/330/2019**