

CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH: JODHPUR

O.A. No.344/2002.

Date of the order: 29.01.2003

Manu Ram, S/o Shri Bhana Ram, aged about 33 years resident of Village and Post- Akora, Via Ranigaon, Distt. Barmer, at present employed on the post of BPM under Superintendent of Post Office, Barmer.

: Applicant.

versus

1. Union of India through Secretary to Government of India, Min. of communications, Department of Post, Dak Bhawan, New Delhi.
2. Superintendent of Post Officer, Barmer Division, Barmer.
3. The Director of Postal Services, O/o the Post Master General, Rajasthan.
4. Inspector of Post Office, Chouhatan Post Office, Chouhatan, Distt. BARMER.

: Respondents.

Mr. B.Khan, Counsel for the applicant.

Mr. Vinit Mathur: Counsel for the respondents.

CORAM: The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. A.P. Nagrath, Administrative Member.



ORDER

Per Mr. Justice G.L.Gupta:

Through this O.A. the applicant calls in question the termination order dated 17.12.2002 Annex. A.1.

2. The applicant was appointed on the post of Branch Post Master at village Akora, Post Akora, Distt. Barmer on 13.2.2001 without any written order. Thereafter the second respondent invited applications from the eligible candidates for selection and appointment to the post of Branch Post Master Akora vide an advertisement dated 25.4.2001, from the candidates belonging to OBC category. The applicant also submitted his application. It is stated that the respondents finalised the selection list and in the said list, his name was kept at Sl. No.2, but as the candidate at Sl.No. 1 did not join, he was entitled to be appointed on the post. It is further stated that after so many requests, the appointment order dated 22.4.2002 Annex. A.5 was issued and now without any reason the services of the applicant have been terminated by the impugned order. It is stated that the principles of natural justice have not been followed and the applicant has been deprived of his livelihood. The termination order, it is alleged, is malafide and arbitrary exercise of power.

3. In the counter, the respondents' case is that the applicant was appointed on provisional basis till regular appointment was made. It is stated that pursuant to the notification dated 24.5.2001 one Tamachi Khan was selected but he could not provide suitable accommodation for the post office, as per the terms of



appointment order and hence his name was removed from the approved list and the vacancy was renotified on 19.11.2001. It is also the case for the respondents that the services of the applicant have been terminated in terms of Rule 8 of the Gramin Dak Sevak(Conduct and Employment) Rules 2001(GDS(C&E) Rules, 2001 for short) and that the vacancy was reserved for ST candidates, for which notification has been issued.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. It is evident from the appointment order Annex. A.5 dated 22.4.2002, that the applicant's appointment was on provisional basis and it was clearly stated in the order that his appointment was till the period regular appointment was made. The applicant's contention that he was appointed on the basis of selection is wholly incorrect.

6. The learned counsel for the respondents placed before us the list of candidates, who had attended the interview on the basis of the notification dated 25.4.2001. The list shows that Tamachi Khan, having got the highest mark, was selected. It is incorrect to state that the applicant's name was placed at Sl.No. 2 in the list. There were many other candidates who had secured more marks than the applicant and they also belonged to OBC category. Therefore the applicant's contention that he ought to have been given regular appointment on the basis of the interview held pursuant to the notification dated 25.4.2001 is not acceptable.

7. It has come on record that since Tamachi Khan could not



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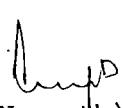
be appointed on account of non fulfilling the conditions of appointment order, a fresh notification was issued and the post has been earmarked for ST category.

8. Rule 8 of the GDS(E&C) Rules, 2001 says that a Sevak who has not already rendered more than three years continuous employment from the date of his appointment, shall be liable to termination at any time by a notice in writing and on such termination the Sevak shall be entitled to a sum equivalent to the amount of Basic Time Related Continuity Allowance + Dearness Allowance as admissible for the period of the notice.

9. In the instant case, the services of the applicant, which were provisional in nature, have been terminated vide order Annex. A.1, whereunder one month's allowance along with D.A. was also ordered to be paid. Therefore it cannot be said that the rules have been violated when the services of the applicant were terminated by the competent authority. It is not in dispute that the applicant had not completed three years of service on the date of termination.

10. Having considered the entire material on record we find no merit in this O.A. It is therefore dismissed.

11. No order as to costs.


(A.P.Nagrath)

Administrative Member


(G.L.Gupta)

Vice Chairman.

jsv.