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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR.**

Original Application No. 276/2005

Date of order: 08.02.2007

**HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN  
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER**

Mangi Lal son of Shri Mishri Lal Khatri, aged 29 years, resident of village Devikot, District Jaisalmer. At present posted as G.D.S. (B.P.M.), department of Post Devikot, Distt. Jaisalmer.

**...Applicant.**

Mr. Khemendra Singh, proxy counsel for  
Mr. L.D. Khatri, counsel for applicant.

**VERSUS**

1. Union of India through Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Post Master General, Rajasthan, Western Region, Jodhpur.
3. Senior Superintendent of Post Offices, Jodhpur Division, Jodhpur.

**...Respondents.**

Mr. M. Godara, proxy counsel for  
Mr. Vinit Mathur, counsel for respondents.

**ORDER  
(By Mr. Kuldip Singh, Vice Chairman)**

The applicant has filed this Original Application seeking the following relief: -

- I. The show cause notice No. H/5/Devikot dated 26.8.2005 and the advertisement No. H/5/Devikot/Sangad/05-06/Jodhpur dated 29.08.2005 may kindly be ordered to be quashed and set aside.
- II. The respondents be restrained from terminating the services of the petitioner.
- III. Any other appropriate order as may be deemed just and proper in the facts and circumstances of the case be passed.
- IV. Costs of the proceedings may kindly be ordered to be awarded in favour of the applicant."

2. The facts of this case as alleged by the applicant in brief are that the applicant was appointed to the post of GDS BPM, Devikot and had taken over the charge on 01.08.2002 vide annexure A/3. Now the respondents are taking steps to remove the applicant from service on the ground that the said post is earmarked for Other Backward Classes (OBC, for short). The applicant was also issued a show cause notice dated

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26.08.2005 (Annexure A/6) informing him that his appointment has been reviewed by the competent authority and it has been found that the applicant has been irregularly appointed against the post reserved for OBC category whereas the applicant belongs to General Category. However, the applicant submitted his reply to the same vide Annexure A/8. The applicant approached this Bench of the Tribunal on the allegations that as he had not been given the opportunity of hearing, he has legitimate expectations to continue in the post in question. It is submitted that on the one hand, the applicant has been issued with the show cause notice and on the other hand, the department had already advertised the post afresh so he did not expect any justice from the respondents and the applicant apprehends that he is definitely going to be removed from service.

3. When the applicant approached this Bench of the Tribunal, he had prayed for interim relief which was granted vide order dated 14.09.2005 by this Bench of the Tribunal. Vide interim order dated 14.09.2005, the respondents were restrained from terminating the services of the applicant from the post of GDS (BPM), Devikot Post Office and the same is in operation till date.

4. It is the fact that the applicant had already completed three years of service as GDS (BPM), Devikot Post Office. As per Rule 8 of GDS (Conduct and Employment) Rules 2001, he was due for regularisation itself. Moreover, the respondents in the show cause notice also admitted that when the post in question was notified it was notified as only for General Category Candidates itself. We are surprised to note as to how the review has been undertaken and the show cause notice was issued without affording any opportunity of being heard to the applicant. Hence, the show cause notice issued to the applicant cannot be sustained



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because before reviewing the appointment of the applicant he should have been given notice stating that as to how he was wrongly appointed on the said post. The opportunity of hearing has also not been given to him. Thus, the principles of natural justice are also violated.

5. In view of the above circumstances, we find that the show cause notice issued to the applicant for terminating his services cannot be sustained. Hence, Original Application is allowed. The impugned order dated 26.08.2005 (Annexure A/6) is hereby quashed and set aside. However, liberty is given to the respondents to take appropriate action in accordance with law. No costs.

*R R Bhandari*  
( R R BHANDARI )

ADMINISTRATIVE MEMBER

*Kumawat*  
(KULDIP SINGH)  
VICE CHAIRMAN

Kumawat

Part II and III destroyed  
In my opinion the order is illegal under section 14 of the  
Secy. to Govt. of India  
Date: 20/08/2005  
Signature: *Kumawat*

Received Copy Khr3  
12/2/07

SMN

Part II and III destroyed  
in my presence on 02-06-14  
under the supervision of  
Section Officer as per  
order dated 26-03-14

✓ Action taken & Record