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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 591/2011 with MA 213/2011

&

592/2011 with MA 214/2011

Jodhpur this the 22nd day of March, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Hon'ble Ms Meenakshi Hooja, Member (A)

Durganath Gaur, S/o Shri Jalunath Gaur, Aged about 42 years,
B/c Natha (OBC), R/o-H.No. 232, Dhobi Talai, Gali No. 10,
Bikaner. (Office Address:- Working as GDS BPM at Panchhu
Post office, Nathusar BO)

.....Applicants

(Through Advocate Mr. S.P. Singh)

Versus

1. Union of India through the Secretary , Government of India,
Ministry of Communication, Department of Post, Dak Tar
Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur -
302007
3. Asst. Director (Estt. & A/C) For Chief Postmaster General,
Rajasthan Circle, Jaipur.
4. The Post Master General, Western Region, Rajasthan,
Jodhpur
5. The Director, O/o Post Master General, Western Region,
Rajasthan, Jodhpur
6. Superintendent of Post Offices, Bikaner Division, Bikaner
7. Superintendent, RMS, ST Division, Bikaner

(Through Advocate Mr Vinit Mathur with D.P. Dhaka)

..... Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

This order will govern the disposal of OA 591/2011 with MA 213/2011 and 592/2011 with MA 214/2011.

2. In both OAs separate MAs have been filed to condone the delay of two months on the ground that the representation of the applicant was dismissed on 18.10.2010, therefore, the MAs were moved with the OA.

In both the OAs, the MAs are allowed for the reasons stated therein with a view that condonation of delay advances the cause of justice and it is always justified to decide the case on merits rather than on technical grounds.

3. The applicant by way of these applications has prayed that impugned order dated 13.10.2010 regarding non-protection of Time Related Continuity Allowance (TRCA) be declared illegal, unjust, improper and to grant TRCA in accordance with the seniority w.e.f. 8.3.1999. And he further prayed to consider his case for promotion in accordance with the length of service and criteria for promotion. In OA No. 592/2011 the applicant has prayed that impugned order dated 18.10.2010 regarding availing of transfer facility be declared illegal, unjust, improper and be quashed.

4. The short facts necessary to consider in both the applications are that the applicant was appointed ED Mailman on 8.3.1999 and he was declared surplus on 1.7.2004 on account of abolition of the

post in the duty station and further he was posted at Panchu under Nathsar Branch Office (Nathsar BO) on 01.11.2004 and he joined on 9.11.2004. The applicant further averred that neither he has been allowed to opt for a transfer as per GDS Conduct and Employment Rules, 2001 now GDS Conduct and Employment Rules, 2011 nor has he been granted the TRCA with respect to his seniority w.e.f. 08.03.1999.

5. By way of counter in both the applications, the counsel for the respondents contended that he was transferred on his own request because applicant, Dinanath requested the Post Master General, West Zone, Rajasthan, Jaipur to transfer him near Bikaner. Therefore, he was redeployed at Panchu under BO Nathusar and availed one time transfer facility available under Rule 23 of the GDS Conduct and Employment Rules, 2001 and further contended that the applicant is only entitled to the TRCA on the basis of his redeployment in Panchu under BO Nathusar i.e. w.e.f. 2004.

6. We have heard both the parties and considered the rival contentions. Counsel for the applicant contended that in his request letter he requested for his transfer to Shekhasar Lunkansar EDDA, Sherpura Mahajan EDMC whereas he has been posted at Panchu under BO Nathusar, therefore, the reply filed by the respondents is misconceived and it cannot be said that he has been posted on his own option on one time transfer request under Rule 23 of the GDS Conduct and Employment Rules, 2001.

7. The copy of the option of request letter has been placed before us for perusal by the counsel for the respondent. It reveals that the applicant requested or opted for his transfer to Shekhasar Lunkansar EDDA, Sherpura Mahajan EDMC on the contrary the applicant has been posted at Panchu under Nathusar BO. Therefore, in our considered view it cannot be said that the applicant has been transferred on his own request or option. It may further be noted that on account of being surplus he has requested for his posting at above two stations. Had it not been the case of surplus, he would not have requested for his transfer. Therefore, it cannot be said that this letter amounts to request for transfer.

8. *Accordingly, the OA No. 592/2011 is allowed to the extent that the order dated 18.10.2010 is quashed and respondents are directed to consider the case of applicant. The applicant may submit transfer request to the respondents within a month and respondent shall treat the request as fresh one and consider it under Rule 23 of the GDS Conduct and Employment Rules, 2001 (now 2011) within three months from the receipt of the request.*

9. *So far as granting of TRCA is concerned, the counsel for the respondents contended that service of the applicant is reckoned from the year 1999 for seniority, promotion and all other purposes except grant of TRCA i.e. his seniority from 1999 is being considered for the purpose of promotion and other benefits.*

We are proposing to dispose off the OA No. 591/2011 with the direction to the respondents to consider the grant of TRCA to the applicant in the light of the fact that his seniority is being counted from the 1999 for the promotion and other purposes. Therefore, Department shall consider the representation of the applicant for granting of TRCA as per rules and OA No. 591/2011 be sent to the concerned department as an additional representation for grant of TRCA as per rules. Accordingly, OA No. 591/2011 is disposed off in terms of above direction.


(Meenakshi Hooja)
Administrative Member


(Justice K.C. Joshi)
Judicial Member