

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

JAIPUR

Date of decision: 4.02.2004

OA No.336/2003

with

MA No.479/2003

Ganpat Singh Chauhan s/o Shri R.S.Chauhan, employed as Development Officer (FLI), Dy. Divisional Manager (FLI), Office of the Chief Postmaster General, Rajasthan Circle, Jaipur.

.. Applicant

VERSUS

1. Union of India through Director General of Posts, Ministry of Communication and Information Technology, Department of Post, Chanakyapuri Post Office Complex, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Sardar Patel Marg, Jaipur.
3. Dy. Divisional Manager (FLI) S, Office of Chief Postmaster General, Rajasthan Circle, Sardar Patel Marg, Jaipur.
4. Asstt. Post Master General (SSB) Office of the Chief Postmaster General, Rajasthan Circle, Sardar Patel Marg, Jaipur.

.. Respondents

Mr S.K.Singh, counsel for the applicant

Mr. N.C.Goyal, counsel for respondents

CORAM:

Hon'ble Mr. M.L.Chauhan, Member (Judicial)

Hon'ble Mr. A.K.Bhandari, Member (Administrative)

O R D E R

Per Hon'ble Mr. M.L.Chauhan.

The applicant has filed this OA thereby praying

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for the following reliefs :-

- "i) To issue an appropriate direction to the respondent to quash the order dt. 17.7.2003 and the applicant be allowed to continue on the post of Development Officer (FLI) for the remaining period of 3 years.
- ii) That any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances may kindly be given in the interest of justice.
- iii) That the cost of the application may kindly be awarded in favour of the applicant."

2. The facts of the case are that the applicant who is serving with the respondents was selected for the post of Development Officer (FLI) against clear vacancy and the tenure of appointment was for 3 years. The applicant was appointed to the said post vide letter dated 18.4.2002 (Ann.A1). The applicant was allotted target of Rs. 6 crores of FLI business which was to be achieved by the Development Officer during the financial year 2002-2003. The applicant achieved FLI business to the tune of Rs. 2,29,40,000/- only during the aforesaid period as against Rs. 6 crores and thus there was a shortfall of about Rs. 3.70 crores. Consequently, a notice was served on the applicant to achieve the minimum target of Rs. 1.5 crores in succeeding three months vide Circle Office Memo dated 16.4.2003 (Ann.A4). In the said notice, it was clearly mentioned that if the applicant fails to achieve the target of FLI business of Rs. 1.5 crores within three months, he will be reverted to his substantive post of Postal Assistant in the first week of July, 2003. The

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applicant despite of issue of the notice failed to achieve the assigned target upto June, 2003. He could only achieve the target of Rs. 35 lakhs as against the target assigned to the applicant of Rs. 1.5 crores pursuant to the said notice. Accordingly, the competent authority issued order of reversion of the applicant to his substantive post of Postal Assistant vide letter dated 17.7.2003 (Ann.A1).

Aggrieved by the aforesaid decision/order, the applicant has filed this OA, thereby praying for the aforesaid reliefs.

2.1 When the matter was listed on 24.7.2003, this Tribunal has granted an interim stay to the extent that the respondents will be at liberty to make selection to the post of Development Officer (PLI) but no appointment to this post will be made till the next date. The said ~~order~~ <sup>order</sup> is continuing till date.

3. Notice of this application was given to the respondents. The respondents have filed detailed reply. In the reply, it has been stated that though the tenure of the applicant was for 3 years, as can be seen from the appointment letter Ann.A2, but in the said appointment order, it was clearly mentioned that a review of his work with reference to standard of output as prescribed from time to time will be made and if the quantum of new business produced by the official is found below the prescribed minimum, he will be liable to be reverted without any notice. The applicant joined the post of Development Officer (PLI) on 9.5.2002. It is further stated that every year, the Directorate of Postal Life Insurance does fix and allot targets to each circle, which are to be achieved through Development Officers (PLI) <sup>of</sup>

working in the circle. The Directorate of Postal Life Insurance had allotted a target of Rs. 51 crores to the Rajasthan Postal Circle, Jaipur. To achieve the target allotted to the circle, each Development Officer was further allotted a target of 6 crores, which was to be achieved by the Development Officer during the year 2002-2003. The applicant was also allotted business target of Rs. 6 crores for achieving during the year 2002-2003. The applicant achieved the target of Rs. 2,29,40,000/- upto 31 March, 2003, against the allotted target of Rs. 6 crores. Thus there was a shortfall of about Rs. 3.70 crores. As a result of this, the Rajasthan Postal Circle could not achieve the target fixed by the PLI Directorate during the year 2002-2003. It is further stated that as per the conditions mentioned in the appointment letter of the applicant, the work of the applicant was reviewed by the Deputy Divisional Manager (PLI) after conclusion of the financial year 2002-2003, but in the review it was found that the applicant has not achieved the target assigned to him. Therefore, the applicant was served notice to achieve a minimum target of Rs. 1.5 crores in succeeding three months vide memo dated 16.4.2003. In the said notice, it was clearly mentioned that if the applicant fails to achieve the target of PLI business within three months, he will be reverted to his substantive post of Postal Assistant in the first week of July, 2003. The applicant despite of notice failed to achieve the assigned target upto June, 2003. He could only achieve the target of Rs. 35 lakhs against the target assigned to him of Rs. 1.5 crores under the above notice. In view of this, the competent authority has no option except to revert the applicant to his substantive post and accordingly, the impugned order

Ann. Al was passed. It is further stated that though the following 5 persons could not achieve the target of Rs. 6 crores but they have produced the PLI business as mentioned against their names:-

|       |                      |                 |
|-------|----------------------|-----------------|
| i)    | Sh.R.K.Sharma        | Rs.4,84,40,000  |
| ii)   | Sh.Sunil Agarwal     | Rs.4,54,00,000  |
| (iii) | Sh. Hari Singh Rao   | Rs.4,73,00,000  |
| (iv)  | Sh. Sohan Lal Meena  | Rs. 4,32,00,000 |
| (v)   | Sh.Ram Singh Chauhan | Rs. 4,79,00,000 |

It is further stated that the business produced by the above mentioned Development Officers (PLI) was very good in comparison to the applicant. Hence, they were kept continue on the post of Development Officer (PLI). The Directorate instructions dated 18.1.1993 lay down the minimum standard for procuring the business but since the directorate has fixed the target of Rs. 51 crores to Rajasthan Circle for the year 2002-2003 and this target is to be achieved through the Development Officers (PLI) of the circle. There are 8 Development Officers (PLI) working in the circle and hence the target of Rs. 51 crores was distributed to them. But inspite of notice of three months, the applicant could not achieve the target assigned to him. Thus, the action of the respondents to revert the applicant on his substantive post of Postal Assistant is quite justified and proper.

3.1 The respondents have also filed Misc. Application for vacation of stay, which was registered as Misc. Application No.479/2003.

4. The applicant has not filed rejoinder, though a rejoinder has been filed in OA No.337/03 (in the connected matter). The learned counsel for the applicant submits

that the same may be read as rejoinder filed in this OA. In that rejoinder the applicant has reiterated the averments made in the OA. It is further contended that no one has achieved the target of Rs. 6 crores. Therefore, the notice should be served to all similarly situated persons and the applicant has been reverted arbitrarily. The initial appointment was for a period of 3 years from the date of appointment and no such condition was imposed on the applicant that he would be reverted prior to 3 years.

5. We have heard the learned counsel for the parties and gone through the material placed on record.

5.1 It is not disputed that the applicant was appointed as Development Officer (PLI) in the Circle Office, Jaipur in the pay scale of Rs. 4500-7000 vide order Ann.A2. Perusal of this annexure shows that the said appointment was for a period of 3 years with the stipulation that extension beyond the said period will be considered on the basis of their performance during this period as per rules. It is further ~~stated~~ in the appointment letter that continuance of the applicant as Development Officer (PLI) will be subject to bringing a good out turn of PLI business. For that purpose a review of their work with reference to the standard of output as prescribed from time to time will be made by the DDM (PLI) and if the quantum of new business produced by the official is consistently below the prescribed minimum they will be liable to be reverted without any notice.

5.2 At this stage, it will be useful to quote para 3 of the said appointment letter which will have bearing on the matter in issue, which reads as follows:-

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"They should clearly understand that continuance as DO (PLI) will be subject to bringing a good out turn of PLI business as prescribed in the Directorate letter No. 35-5/87-LI dated 18.1.1993. A review of their work with reference to the standard of our put as prescribed from time to time will be made by DDM (PLI) and if the quantum of new business produced by the officials is consistently below the prescribed minimum they will be liable to be reverted without any notice."

5.3 It is also not disputed that the applicant was allotted a target of Rs. 6 crores during the year 2002-2003 and as against this target, the applicant could achieve only the target of Rs. 3.29,40,000/- only upto 31st March, 2003. As such, there was a shortfall of Rs. 3.70 crores. The applicant also could not achieve the minimum target of Rs. 1.5 crores in succeeding three months given vide notice dated 16.4.2003 (Ann.A4/1). In the said notice, it was clearly mentioned that if the applicant fails to achieve the target of PLI business of Rs. 1.5 crores in three months he will be reverted to his substantive post of Postal Assistant in the first week of July, 2003. The applicant despite issue of this notice failed to achieve the assigned target upto June, 2003. The applicant could only achieve the target of Rs. 35 lakhs against the target of Rs. 1.5 crores. Thus, according to us, the action of the respondents in reverting the applicant to the post of Postal Assistant cannot be faulted and such action has been taken in conformity with the stipulation laid down in the appointment letter, as reproduced above, which stipulates that in case the quantum of new business

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produced by the officials is consistently below the prescribed minimum, he will be liable to be reverted without any notice. In the instant case, the respondents have also given further opportunity to the applicant to achieve the proportionate target i.e. PLI business to the tune of Rs. 1.5 crores in three months but the applicant could not take benefit of the said notice and could only achieve the target of Rs. 35 lakhs against the target of Rs. 1.5 crores. As such, the action of the respondents in reverting the applicant to the post of Postal Assistant cannot be faulted.

5.4 The main contention of the learned counsel for the applicant is that though there were several other persons who have not achieved the target of Rs. 6 crores, but still they have been allowed to continue on the post of Development Officer (PLI) whereas the applicant has been reverted in arbitrary manner. As such the action of the respondents is arbitrary and violative of Article 14 of the Constitution. We are of the view that such contention of the applicant cannot be accepted. In the reply, the respondents have categorically stated that 5 persons who have been retained as Development Officer (PLI) have produced a business of more than 4 crores as against <sup>Rs.</sup> 2,29,40,000 achieved by the applicant. As such the business produced by them was very good as compared to the applicant and hence they were allowed to continue on the post of Development Officer. According to us, such an action is not violative of Article 14 of the Constitution. As per terms and conditions of appointment, more particularly para 3, which has been reproduced above, the continuance of the applicant as Development Officer (PLI) was subject to bringing a good out turn of PLI business

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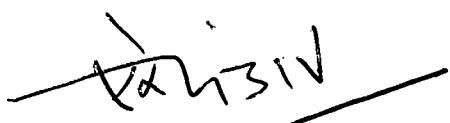
and for that purpose review of work with reference to standards of output as prescribed from time to time was to be made by the Deputy Divisional Manager (PLI). In case the competent authority has arrived at a decision that a person who have achieved the target of more than 4 crores as against 6 crores is to be continued in service, such a decision cannot be said to be arbitrary. Admittedly, the target achieved by the applicant was far below than the allotted target of Rs. 6 crores. Even the applicant has failed to achieve the proportionate target of Rs. 1.5 crores in 3 months when opportunity was given to him. As such, the applicant was rightly reverted when on review of his work with reference to the allotted target the competent authority came to the conclusion that the applicant failed to achieve the PLI business target allotted to him during the year 2002-2003. Further, Article 14 is a positive concept which cannot be enforced in a negative manner. When any authority is shown to have committed any illegality or irregularity in favour of any individual or group of individuals other cannot claim the same illegality or irregularity on the ground of denial thereof to him, as laid down by the Apex Court in the case of State of Bihar vs. Kameshawar Prasad Singh, 2000 (4) SLR 8 (SC). <sup>Thus</sup> ~~by~~ the applicant has no enforceable right to compel the authorities that 5 persons who have also failed to achieve the target of 6 crores, though they have achieved the target of more than 4 crores, be also reverted and no mandamus in that regard can be issued as contended by the learned counsel for the applicant during the course of arguments and also the plea taken by the applicant in rejoinder filed in OA No. 337/03.

6. In view of what has been discussed above, the OA

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is dismissed with no order as to costs.

6.1 The interim stay granted on 24.7.2003 is hereby vacated and as such MA No.479/2003 has become infructuous and accordingly disposed of.

  
(A.K.BHANDARI)  
Member (A)

  
(M.L.CHAUHAN)  
Member (J)