

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 23.7.2004

OA 392/2003

Mahaveer Prasad Prajapat s/o Shri Sukhiya r/o Village & Post Luharpura, via Khatkar, Tehsil Nainwa, District Bundi.

... Applicant

Versus

1. Union of India through Secretary, Department of Post, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. Post Master General, Department of Post, Jaipur.
3. Sub Divisional Inspector (Post), Department of Post, Western Division, Bundi.
4. Shri Manoj Mehra, GDSBPN, Balapura, Naya Gaon, District Bundi.

... Respondents

CORAM:

HON'BLE MR. .K.AGRAWAL, MEMBER (A)

HON'BLE MR.M.L.CHAUHAN, MEMBER (J)

For the Applicant	... Mr.Amit Mathur
For Respondents No.1to3	... Mr.N.C.Goyal
For Respondent No.4	... None

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following relief :

- "i) impugned order dated 5.12.2002 passed by the official respondents may be quashed and set aside.
- ii) direction may be issued to reinstate the applicant in the services of the respondents as GDSBPM with consequential benefits."

2. Facts of the case are that the post of Gramin Dak Sevak Branch Post Master (GDSBPM, for short), Luharpura, Distt.Bundi, became vacant after the death of one Shri Bajrang Lal Gaur on 24.5.2001. It has further come on record that thereafter Shri Ram Swaroop, Mail Overseer, worked on the said post w.e.f. 25.5.2001 in order to run the services. The Superintendent of Post Offices, Tonk, vide letter dated 8.6.2001 (Ann.R/2) directed the Inspector of Post Offices, Bundi (West), to give charge of vacant post of GDSBPM Luharpura on purely temporary basis to the eligible candidate. It was specifically mentioned in the said letter that the candidate should submit the undertaking that his services are purely on temporary basis and will be terminated as soon as the regular appointment is made on the post. It was further mentioned that the person so

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appointed will have no claim on the post and he will hand over the charge to the regularly appointed candidate immediately and he will not challenge his appointment in CAT/Court. In compliance of the direction issued by the Superintendent of Post Offices, Tonk, the Inspector of Post Offices, Bundi (West), deployed the applicant temporarily on the post of GDSBPM, Luharpura, on 18.6.2001. The respondents have placed on record copy of the charge report dated 18.6.2001 as Ann.R/3. It has also come on record that the applicant had also given an undertaking in writing in the form of an application dated 18.6.2001 (Ann.R/4) that whenever a regular arrangement on the post will be made, he will hand over the charge to the regularly appointed person and he will not claim any right on the post and will not challenge his appointment to the said post in CAT/Court. It was in these circumstances that the applicant was given appointment. Subsequently, the respondents took steps for filling up the said post by issuing notification dated 12.7.2001 (Ann.R/5). A notification of vacancy dated 12.7.2001 (Ann.R/6) was also sent to the Employment Exchange Bundi with the request to forward the panel of eligible candidates of SC community. The District Employment Officer vide letter dated 30.7.2001 (Ann.R/7) informed that the eligible candidates of SC community of Villages Luharpura, Motipura, Sabalpura and Manak Chowk are not available on the live register of the Employment Exchange. Subsequently, letters dated 13.8.2001 (Ann.R/8) and 17.9.2001 (Ann.R/9) were again sent to the Employment Exchange to forward the list of eligible candidates of SC community of Bundi District. It has also come on record that in the meanwhile Shri Moti Lal Guar s/o Late Shri Bajrang Lal Gaur also applied for appointment on compassionate grounds. Since he was 8th class pass and was not eligible for the post of GDSBPM, vide letters dated 27.2.2002 (Ann.R/11) and 2.5.2002 (Ann.A/12) direction was sought from the Post Master General, Rajasthan Southern Region, Ajmer, that whether appointment can be made for the post of GDSBPM Luharpura or the post is to be kept vacant till the case of Shri Moti Lal be decided for appointment on compassionate grounds. Subsequently, the case of Shri Moti Lal Gaur was decided on 14.5.2002 and he was appointed as Mail Carrier/Deliverer. Thereafter, the application forms for the post of GDSBPM Luharpura were scrutinised and none of the applicant was found eligible with the pre-requisite conditions. Again as per GDS Rules (New) 2001 a general notification was issued on 4/8.7.2002 (Ann.R/14) and a notification of vacancies dated 4/8.7.2002 was sent to the Employment Exchange Bundi with a request to forward the panel of eligible candidates of SC community. The applications of the eligible candidates were sent for verification to the concerned Divisional Officers. After verification Shri Manoj Kumar Mehra (Respondent No.4) was selected for the post of GDSBPM Luharpura.

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The respondents have also placed on record copy of the proceedings dated 8.11.2002 as Ann.R/17. Shri Manoj Kumar Mehra was handed over the charge of GDSBPM Luharpura by opening a parallel Post Office at Lunarpura as the applicant produced medical certificate and became absent and handed over the charge to Shri Lekh Raj Meena, who refused to hand over the charge to Shri Manoj Kumar Meena. It was in these circumstances that the stop gap arrangement of the applicant was terminated and in his place respondent No.4 was selected.

3. The applicant in this OA has raised two fold submissions. First submission is that there being one post, 100% reservation could not have been made. As such, appointment of respondent No.4 is illegal. Second submission made by the learned counsel for the applicant is that respondent No.4, who was selected was not having immovable property at Balapura, which was one of the conditions laid down in the advertisement/appointment letter that the candidate must be a resident of postal distribution area. The applicant has also pleaded that the respondents have no policy to reserve the post for SC candidate. It is only on these basis the applicant has filed this OA thereby praying for the aforesaid relief.

4. Notice of this application was given to the respondents, who have filed a detailed reply. The facts, as stated above, have not been disputed in the reply. So far as contention raised by the learned counsel for the applicant that there is no reservation for SC category, it has been stated by the respondents that there is a policy of reservation and in fact there was shortfall of SC candidate in the Division so the post was earmarked for SC candidate and both the times notification was issued for SC candidates. The submission of the applicant is not admitted that earlier the post was advertised for OBC candidate. The allegation of the applicant of helping to the selected candidate is baseless and not correct. This part of pleadings find mention in para -5(D) of the reply. The applicant has not filed any rejoinder. As such, the submissions made by the respondents in the reply have not been controverted.

5. We have heard the learned counsel for the parties. <sup>At</sup> ~~At~~ the outset it may be stated that the applicant has neither challenged the appointment of respondent No.4 nor he has challenged the advertisement whereby the post of GDSBPM Luharpura was required to be filled from SC category. In the absence of any challenge to these orders, the validity of these orders cannot be gone into <sup>and examined</sup> ~~change~~. As such, the contention of the learned counsel for the applicant that there is no reservation and the post ought

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to have been filled from OBC category and not from SC cannot be accepted. Further, the respondents in their reply affidavit have specifically stated that there was a shortfall of SC candidate in the Division. As such, the post was rightly advertised for SC candidate. This part of pleading has not been controverted by the applicant. The respondents have specifically mentioned that it is the Division which form basis for the purpose of determining the shortfall of vacancies for the purpose of reservation. Thus, contention of the learned counsel for the applicant that this being a single post reservation could not have been made, cannot be accepted. In view of the specific stand taken by the respondents in the reply that the Division form basis for the purpose of reservation and not the Post Office for the purpose of which the vacancy has been advertised, *the applicant has no case*.

6. Yet for another reason the applicant is also not entitled for any relief. The applicant has sought direction that he should be reinstated in service by the respondents as GDSBPM with all consequential benefits. From the facts stated above it is quite evident that the applicant was appointed only on stop-gap basis and before making appointment he was given clear understanding that this is a stop-gap arrangement till the vacancy is not filled by the regularly selected candidate by the respondents. The applicant has also given undertaking to that effect. Since appointment of the applicant was stop-gap arrangement, he cannot seek direction that his services should be regularised. Further, when the applicant was appointed, no selection process was undergone by the respondents. Thus, without going into other aspect of the matter, we are of the view that the applicant is not entitled for the relief as prayed for. Accordingly, the OA dismissed with no order as to costs.

  
(M.L.CHAUHAN)  
MEMBER (J)

  
(S.K.AGRAWAL)  
MEMBER (A)