

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Kalish
26/9/17

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 79/07
2. Miscellaneous Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(s) A.K. Rakshit VS Union of India & Ors

Advocate for the Applicant(s) S. Sarma,
Ms. B. Devi, H.K. Das

Advocate for the Respondent(s) Ms. U. Das

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed for Rs. 50/- as per the order of the Dated <u>24.2.07</u> Dy. Registrar <u>26.3.07</u> Petitioner's copy's are not received</p>	27.3.07.	<p>The case of the applicant is that he has been absorbed as EDBPM in 1978 under the P & T E D Agent Conduct and Employment Rules, 1964. After completion of 19 years of service the respondents has closed down the Branch Office. Later on he was engaged as GDS MD (Mail Deliverer) in Lala SO. But the applicant being a physically handicapped person with his 63 years old age is facing difficulty in discharging his duties.</p>

I have heard Ms. B. Devi learned
counsel for the applicant and Ms. U. Das
learned Addl. C.G.S.C for the Respondents.
Post the matter on 10.4.07 for Admission.

Copy of the order be furnished to the
counsel for the respondents.

Vice-Chairman

Received
Addl. Chce
28/3/07

2
OA. 79/07
8.5.2007

Mr.H.K.Das, learned counsel for the Applicant is present. Ms. U.Das, learned Addl.C.G.S.C. prays for time, to file reply statement.

The issue involves is that the Applicant, working as DEBPM on closure of the Branch Office he has been engaged as Mail Deliverer. Since the Applicant being a old person aged about 63 years and physically handicapped is unable to do the said job efficiently and he has been put to great hardship. While granting four weeks' time to file reply statement Ms. U. Das, learned "Addl. C.G.S.C. is specifically directed to obtain instruction as to whether Respondents can accommodate the Applicant in any other job involving less strenuous works and also as to whether there is any vacancy in the nearby places so as to accommodate the Applicant in less arduous job.

Post the case on 08.06.2007.

Vice-Chairman

/bb/

8.6.07.

At the request of learned counsel for the respondents three weeks further time is granted to file written statement. post the matter on 2.7.07.

Vice-Chairman

Received
Alshadan
Addl chsc
09/5/07

7-6-07
no reply filed
lm

Wks not yet filed

29.6.07.

lm

0879/07-3-

2.7.2007

Ms.U.Das, learned Addl.C.G.S.C. has filed reply statement copy of which is served on the Applicant's counsel. Counsel for the Applicant wanted time to file rejoinder. Three weeks time is allowed.

Post the case on 24.7.2007.

5.7.07
W/s submitted
by the Respondents.
page 1 to 4. Gpm
served.

PA

/bb/

Vice-Chairman

Rejoinder not
biled.

24.7.07.

Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the mater on 8.8.07.

3
23.7.07.

Vice-Chairman

29.3.07
w rejoinder filed so far.
bn

30.8.2007

Further time of three weeks is granted to the Applicant to file rejoinder.

Post on 20.9.2007

Rejoinder not biled.

3m
19.9.07.

/bb/

Vice-Chairman

20.9.07

Counsel for the applicant wanted to file rejoinder.

Post on 11.10.07 for order.

Rejoinder not biled.

3
10.10.07

Vice-Chairman

pg

OA 79/07 - 4 -


11.10.07 Despite for the adjournments, no rejoinder has been filed in this case, as yet. Mr S.Nath makes a submission (on behalf of the counsel for the Applicant) seeking an adjournment for filing rejoinder.

Call this matter on 19.11.07 awaiting rejoinder from the applicant.

Miss U. Das, learned Addl. Central govt. standing counsel undertakes to file appearance memo in this case for record.

① WB filed.
② Rejoinder not filed.

U.D.
16.11.07.


(Khushiram)
Member(A)


(Manoranjan Mohanty)
Vice-Chairman

cc -

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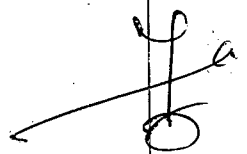
19.11.2007 Mr.H.K.Das, learned counsel for the Applicant, undertakes to file rejoinder by 03.12.2007.

Call this matter on 03.12.2007 for final hearing.

Rejoinder not filed.

U.D.
30.11.07.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman


/bb/

03.12.2007

Call this matter on 18.01.2008.

Rejoinder not
filed

U.D.
17.1.08.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

18.01.2008

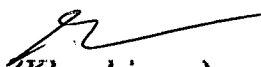
The respondents, through Ms U. Das, learned Addl. Standing Counsel for the Union of India, filed a written statement on 03.07.2007; to which rejoinder is being filed by the Applicant today in Court.

Ms U. Das now intends to withdraw the written statement that was filed on 03.07.2007 and has filed a fresh written statement today in Court after serving a copy thereof on Mr H.K. Das, learned Counsel appearing for the Applicant.

On consent of the learned Counsel for the Applicant, the written statement filed today is accepted and the one, which was filed on 03.07.2007, is permitted to be withdrawn.

Heard the learned Counsel for the parties and perused the materials placed on record.

For the reasons recorded separately, this O.A. stands disposed of with a direction to the Respondent/Department to suitably post the Applicant as against Saidband Pt II BO on Koyah T.E. BO.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nkmm

*Received copy
Usha Das,
Addl. Secy
30/1/2008*

*Received copy.
H. al.
30.1.08*

30.1.08

*Copy of the first
sent to the office.
for issuing the order to
the Respd. No 2 & 3.*

*18.3.08
sent to the office of No 3
1032 on 1033
11.2.08*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

Original Application No. 79/2007

DATE OF DECISION : 18-01-2008

Shri Ajit Kumar Rakshit

.....Applicant/s

Mr S. Sarma

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Miss U Das, Addl. C.G.S.C

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.


Vice-Chairman/Mamber(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.79 of 2007.

Date of Order : This the 18th Day of January, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Ajit Kr. Rakshit
S/o Amika Charan Rakshit
R/o Vill & P.O. Katlicharra,
Dist. Hailakandi, Assam

.....Applicant

By Advocate Shri S.Sarma & H.K.Das.

- Versus -

1. Union of India,
Represented by the Secretary to the
Govt. of India, Ministry of Communication,
Dak Bhawan, New Delhi.
2. The Chief Postmaster General,
Assam Circle,
Meghdoot Bhawan, Guwahati-1.
3. The Senior Superintendent of Post Offices,
Cachar Division,
Silchar-788001.

.....Rspondents

By Miss U. Das, Addl. C.G.S.C.

ORDER (ORAL)

KHUSHIRAM, (MEMBER-A)

The Applicant was appointed as EDBPM with effect from 24.02.1978 and after 19 years of service, the branch post office (in which he was working) was closed and, instead of terminating the service of the Applicant, he was directed to resume the duty of GDS MD (Mail Deliverer) in Lala SO. Because of his physically handicapped condition and old age, the Applicant has been requesting to engage him



in a less strenuous job; but nothing has been done so far. Aggrieved by this attitude of Respondents, this Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 to seek the following relief :-

"To pass an appropriate direction to the respondents to place the applicant as GDSBPM in a nearby station providing him a less strenuous job and to provide him all such consequential service benefits as may be admissible under the facts and circumstances of the case."


2. The Respondents have filed a written statement stating that the mobile branch office (of which the Applicant of BPM) was closed down with effect from 06.04.1987 but Applicant was not thrown out of employment and was offered to be posted as a Telegraph Messenger at the Lala Sub Post Office; where the Applicant has been working; that because of the policy adopted by the Respondents to reduce expenditure, the post of the telemessenger at Lala Sub Post Office had to be withdrawn; that one alternative could have been to terminate the service of the Applicant by giving him one month's notice under Rule 8(6) of DOP GDS (Conduct & Employment) Rules 2001 but, on a special consideration of his long unblemished service and the availability of posts of Mail Deliverer in Lala S.O, he was offered an alternative appointment; that by expressing unwillingness to continue in the post of MD of Lala S.O, the Applicant asked for a posting as BPM of Katlacherra Bazar Branch Post Office; that since the said post was not vacant, the Applicant was asked to express his willingness to work in any of the vacant posts of GDSBMs at Paikan B.O, Madan Mohan BO, Saidband Pt II BO on Loyah T.E.BO.

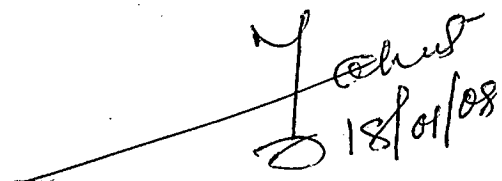


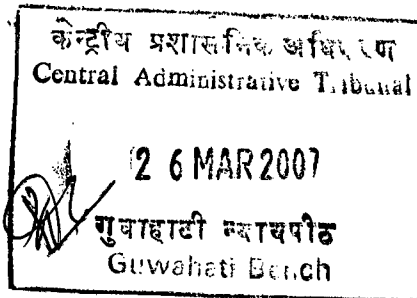
3. We have heard Mr S.Sarma, learned counsel appearing for the Applicant and Ms U. Das, learned Addl. Standing counsel for the Union of India/Respondents.

4. After hearing the rival arguments of both the parties and on perusal of the material placed on records, this case is disposed of with a direction to the Respondents to consider posting the Applicant, suitably and as per his choice, against the vacant post of GDS BPM of the Branch Post Offices named in the written statement filed by the Respondents.

5. This case is accordingly disposed of without any order as to costs.


(KHUSHIRAM)
ADMINISTRATIVE MEMBER


(MANORANJAN MOHANTY)
VICE CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : D.A. No. 79 of 2007.

BETWEEN

Shri Ajit Kumar Rakshit Applicant.

AND

Union of India & ors..... Respondents.

SYNOPSIS

The applicant got his initial appointment as EDBPM, w.e.f 24.2.1978, under the P & T E.D Agents Conduct and employment Rules, 1964. After completion of about 19 years of unblemish service life in that BO, the respondents surprisingly took a decision to close down the said BO and the applicant was asked to hand over the charge. Though the service of the applicant was not terminated nor there was any order to that effect, the applicant virtually was thrown out of service without any notice what so ever. The respondents issued an order dated 17.08.06 directing the applicant to resume the duty of GDS MD (Mail Deliverer), in Lala SO but the applicant being a physically handicapped person with his old age is facing difficulty in discharging his duties. The applicant ventilating his grievances made several representations to pursue the authority for putting him in a less strenuous job but nothing has been done to that effect.

Hence this application.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 79 of 2007.

BETWEEN

Shri Ajit Kumar Rakshit Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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Filed by : Miss. B.Devi, Advocate.

Regn.No.:

File :WS7\Ajit

Date : 26.3.07

Filed by:-
The Applicant
through
Hridip K. Das,
Advocate
26.3.07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL::
GUWAHATI BENCH::

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No. ... 79 of 2007.

BETWEEN

Shri Ajit Kr Rakshit
S/o Amika Charan Rakshit.
R/o Vill & P.O.: Katlicharra.
Dist. Hailakandi, Assam.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Communication,
Dak Bhawan, New Delhi.
 2. The Chief Postmaster General,
Meghdoot Bhawan, Guwahati -1.
Assam.
 3. The Senior Supdt.of Post Offices
Cachar Division,
Silchar-788001.
- Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE:

This application is not directed against any
particular order but has been made praying for an order
directing the respondents to place him in a less strenuous
job near his residence having regard to the physical
inability as well as the age.

A. Rakshit

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant got his initial appointment as EDBPM, Swarupnagar Amtala (Mobile) EDBO, w.e.f. 24.2.78, under the P & T E.D Agents Conduct and Employment Rules 1964. To that effect an agreement was executed by the respondents. The applicant served about 19 years of unblemish service as per the initial appointment but surprisingly enough the respondents in the year 1987, took a decision to close down the said BO (Branch Office) and the applicant was asked to hand over the charge. Though the service of the applicant was not terminated nor there was any order to that effect, the applicant virtually was thrown out of service without any notice what so ever.

4.2. That the applicant ventilating his such grievances made all sort of efforts to pursue the authority for his reinstatement in any of such identical job/post but nothing

SPR

was done for a long spell of period. To that effect the rules and guidelines issued by the respondents mainly which are indicated in the orders dated 43-24/64 pen dated 12.04.1964 and order No 43-4/77 pen dated 23.2.1979 clearly stated that EDAs who are rendered surplus after the closure of the B.O are required to be adjusted in the next available vacancies.

That the applicant craves leave of the Hon'ble Tribunal for a direction to the respondents to place on record the orders as mentioned above at the time of hearing of the case.

4.3. That the applicant as stated above was appointed as EDBPM, but due to closure of the said BO his service got automatically terminated and as per the provision of the rules he was to be appointed/ adjusted against the post of EDBPM against the next available vacancy. The respondents however, after a gap of several years i.e, vide order dated 28.08.1990, absorbed the applicant not as EDBPM, but as EDDA in the Lala Sub Office.

A copy of the said order dated 28.08.1990 is annexed herewith and marked as ANNEXURE- 1.

4.4. That the respondents are duty bound to place the service of the applicant as EDBPM, but inspite of repeated requests same has not been done more so when there were vacancies at that relevant point of time. The respondents adding insult to the aforesaid injury issued orders for appointment of the applicant in strenuous job in distant

Harshit

areas. The applicant made several representations to the concerned authority but same yielded no result in positive.

4.5. That the respondents issued an order dated 17.08.06 directing the applicant to resume the duty of GDS MD (Mail Deliverer), in Lala SO. The scheduled duties and responsibilities of a GDSMD is to effect the delivery within the territory covered by the said Post office or SO . The applicant being a physically handicapped person with his old age has now been forced to work as GDSMD, which is virtually impossible for him.

Copy of the said order dated 17.8.06 is annexed herewith and marked as ANNEXURE -2.

4.6. That the applicant begs to state that highlighting his aforesaid grievances he made several representations to the authority concerned but same yielded no result in positive. It is under the aforesaid peculiar fact and circumstances of the case the applicant as a last resort has come under the protective hands of the Hon'ble Tribunal praying for a direction to the respondents to post him in an appropriate place and post providing him less strenuous job.

Copies of one of such representations is annexed herewith and marked as ANNEXURE - 3.

4.7. That the applicant begs to state that respondents have acted contrary to the settled provisions of service jurisprudence in not allowing the prayers made by the

Akashit

applicant in his representations. The service of the applicant had been illegally dispensed with and at the time of his re-employment he was not provided with the exact post having identical duties and responsibilities causing hardship to his entire service career. That apart the respondents have acted contrary to the provisions of law in not disposing the representations filed by the applicant. In the given set of the facts and circumstances the applicant being made a victim of the circumstances. It is noteworthy to mention here that the respondents from the year 1987 till date have recruited thousands of GDSBPM in the area in question but as per the condition put at the time of putting the applicant surplus, they are to accommodate the applicant prior to all such newly recruited GDSBPM. The applicant as stated above having faced such a situation had left no stone unturned but same yielded no result in positive. Situated thus the applicant as a last resort has come under the protective hands of the Hon'ble Tribunal.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in not posting the applicant near his home town and not providing him the less strenuous job as prayed for is illegal and arbitrary and violative of the principles of natural justice and administrative\ fair play.

5.2. For that the respondents knowing fully well about the physical condition of the applicant ought to have place

akashit

him near his home town providing him a job commensurating to his present physical condition. Having not done so the respondents have acted contrary to the law holding the field and as such the impugned action of the respondents are required to be set aside and quashed.

5.3. For that the respondents have violated the provisions of law as well as the guidelines holding the field and as such appropriate direction need be issued to the respondents to post the applicant in a near by station as GDSBPM and to provide him all such consequential service benefits flowing from such posting .

5.4. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

Dr. Ravi

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To pass an appropriate direction to the respondents to place the applicant as GDSEBPM in a nearby station providing him a less strenuous job and to provide him all such consequential service benefits as may be admissible under the facts and circumstances of the case.

8.2. Cost of the application.

8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Akashit

Considering the facts and circumstances of the case, the applicant does not pray for any interim order at this stage.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 286 989985
2. Date : 24.2.07
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

Prashant

VERIFICATION

I, Shri Ajit Kumar Rakshit, son of Late Amika Charan Rakshit, aged about 63 years, resident of Village and P.O. Katlicherra, Dist- Hailakandi, do hereby solemnly affirm and verify that the statements made in paragraphs 4.4, 4.7 are true to my knowledge and those made in paragraphs 4.1-4.3, 4.5-4.6 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 26th day of March of 2007.

5

Ajit Kumar Rakshit

ANNEXURE— 1

Annexure -1.

OFFICE OF THE SUB-DIVISIONAL INSPECTOR.

HAILAKANDI SUB DIVISION.

HAILAKANDI, - 788151.

MEMO NO. A-1/Lala/Part II.

dated Hly the 28.8.90.

In conformity with the Senior Supdt. of Post Office Cachar, Division, Silchar letter No A-361 dated 14.8.90 the following order is issued to have immediate effect.-

Sri Ajit Kumar Rakshit, Ex EDBPM and a surplus ED Official, is directed to join and act as EDDA Lala S.O temporarily vice Sri Birendra Kumar Nath officiating in Group-D cadre.

Sri Ajit Kumar Rakshit will join as EDDA Lala SO terminating the existing temp. arregment.

SD/-

copy to

1. The Postmaster Silchar HO 788001.
2. The Sub Post Master lala SO for information and necessary action.
3. Sri Ajit Kumar Rakshit P.O Katlacherra.
4.)/C.

Sd/=

Sub Divisional Inspector of
Post Offices.
Hailakandi Sub Division.
Hailakandi - 788151.

Attested



Advocate.

ANNEXURE— 2

Department of Posts: India

O/o Inspector Posts
Hailakandi Sub-Division
Hailakandi

To
The SPM
Lala S.O.

No.A1/Lala dated at Lala the 17/08/06

Sub: Engagement of GDS Teli Messenger of Lala S.O. as GDSMD.

Kindly refer to DD letter NO.A-88/II dated 14/8/06 on the above subject to engage the GDS Teli Messenger as GDSMD of your office by stopping or inside office work.

If he fails to carry out the order the entry in Error Book should be made & copy should be sent to this office alongwith detailed report.

Implimatation of this order should be communicated to this officer.

O/o Inspector Posts
Hailakandi Sub-Division
Hailakandi

Copy to:-

1. The Sr. Supdt. of P.O.s Cachar Dn. Silchar for kind information w.r.t. this letter No.A-88/II dated 14/8/06. Proposal for redeployment of the said post alongwith further report will be submitted shortly.

2. Shri Ajit Kr. Rakshit GDS Teli Mgr. Lala S.O. He is once again directed to carry out the order of the undersigned in r/o GDSMD failing of which Misc. action will be taken against him.

O/o Inspector Posts
Hailakandi Sub-Division
Hailakandi

Attested



Advocate.

To

- 12 -

ANNEXURE-3

The Hon'ble Senior Supdt of Posts Cachar Dvn.
Silchar - I.

SUB :- PRAYER JUSTICE AT THE BAG END OF MY LIFE.

Respected Sir,

With due respect, I beg to leave this few lines
for favour of your kind mercy and justice.

That Sir, the than Supdt of Po's, Cachar Dvn.
vide his letter No. H3-627/C/P.F. dt. 18-4-78, appointed
me Provisionally as E.D.B.P.M. Swarupnagar Amala (Mobile)
E.D.B.O. with effect from 24-2-78, with a clear understanding
that my service will be governed by P & T E.D. Agents
conduct & employment rules 1964, and accordingly agreement
was obtained from me in the prescribed preforma.

That Sir, Surprisingly enough after a Gap of nearly
19 years S.D.I. Po's, Hailakandi vide his letter No. AI/
Swarupnagar Amala/87 citing Supdt of Po's, letter No. SSP/SC
Tele Coded YP/1850/1 in file H3/Mobile P.O directed me to
handover charge to S.P.M. Katlicherra and to close down
the Post office, and accordingly it was done.

That Sir, It is clearly written in the above order
of S.D.I. Po's, as well as S.S.Pos for closing down the Post
office, but it is no where written in that order, that my
service is terminated automatically due to closer of the
Post office. Not only that, the appointment letter issued
by Supdt of Posts, where it is stated, my service will be
governed by E.D. Agents Conduct rules and employment rules
1964, but it is not stated my service will governed by
mobile post office appointment rules. Thus without issuing
any formal termination order till date, from the Post
E.D. B.P.M. Swarupnagar Amala/Mobile P.O. under E.D. Agents
conduct & service rules 1964, I was harrassed like anything,
by a grounds which was not disclosed to me at the time of
appointment, which is really a greate injustice.

Contd.....P/2.....P.T.O.

Attested

Advocate

That Sir, though there was no any termination order of mein, till self approach to the Sr. Supdt of Po's to avoid cases and litigation and prayed for alternate appointment who in turn, inform me that, a directive was issued to S.D.I. Po's, for giving my abserbance, vide his letter No. A 575 dated 19-7-89 and thus again there were injustice with me, ~~xxx~~ because, D.G. Posts vide his letter No. 43-4/77 Pen dated 23-2-1979 clearly directed the respective appointing authority to prepare waiting list for surplus ED/Staffs. If, asper S.S.P./Sc's order, I may be a surplus one, till waiting list for me is to be prepared by SSP/SC, as I was render surplus from the Post of B.P.M., and appointing authority of the B.P.M.S are supdt/Sr. Supdt of Po's, but not S.D.I Po's assuch reply dated 19-7-99, of the supdt of Po's is also against the established rules of the ~~depar~~ department.

That Sir, D.G. Posts, vide order No. 43-24/64 pen dated 12-04-1964, and or No. 43-4/77 pen dated 23-2-1979 clearly states. " In cases where a post has been abolished E.D.A.'s are to be offered alternative appointment within the Sub-Division in the next available vacancy." " EDAS who are held as surplus consequent of the abolition of E.D. posts are to be adjusted against the posts that may occur subsequently in the same office or in the neighbouring office."

That Sir, from the date of abolition of my office to till 2005, several vacancy for the post of B.P.M. were also appointed, but no scope was given to me, though rules of the Department creates scope for me, which is really an unfortunate affairs for a poor and physically handicaped man like me.

That Sir, At last on 28-8-90 S.D.I. Po's Hailakandi vide his memo No. AI/Lala Part - II dated 28-8-90 abserbed me as E.D.D.A. Lala S.O. and again vide his letter No. BI/Staff/Misc dated 18-9-90 diverted me to the post of Tele messenger. Again S.D.I. P.O. Hailakandi vide letter dated AI/Lala dated 8-7-06, asked me whether I was willing to work as B.P.M. in four places. as the post of Telemessenger Lala is not justified asper present norms, from all these, it is clear that always

Contd....P3...P.T.O.

hon'ble department attempted to accomodate me in a post whose justification is depend upon the mercy of the employer, but not on the condition of the unfortunate employee. Not only that through this letter it was also asked to intimate whether I was willing to work as B.P.M. in four places, though asper stated circular of the hon'ble D.G. post, it is the duty of the appointing authority to accomodate surplus E.E.D.A.S. in the next available vacancy asking option whether willing to work as B.P.M. that instructions were not there.

That Sir, again S.D.I. Pe's, vide No. AI/Lala dated 17-8-06 issued directives to S.P.M. Lala to engage me as G.D.S.M.D.g where I as though working but, practically due to my physical problems it is really difficult to on my part to cover up the delivery area under me, and thus that order of S.D.I. Pe's hailakandi indirectly becomes a punishment for me instead of my source of livelyhood.

That Sir, for the facts narrated above, it is Quite clear that -

(i) Asper original appointment order of mine, condition of my service was ordered to governed by E.D. Agents conduct and employment rules 1964.

(ii) My service condition was changed, unilaterally, by the appointing authority without giving me any chance to defend.

(iii) List of Surplus ED/E B.P.M.S due to abolition of post was to be prepared by the appointing authority, but not done.

(iv) Diversion from the unit of Supdt Pe's to the unit of S.D.I. Pe's was done without assigning any reasons to me, where I was treated mercilessly.

(v) Several post of B.P.M. were created and appointed, but as a surplus candidate, though I was suppose to get priority, in that area, but were not given.

In view of the above, your gracious honour is requested, kindly examine the whole aspect of my ~~xxx~~ service from the date of appointment to till date, and if justified by rules, than, there is nothing to say, but if any injustice are there, than please provide me justice and obliged.

Yours faithfully,

Dated - Lala
4.9.06

Ajit Kumar Bhatia
E.D.T.M., Lala, S.O. 4.9.06
Dr. - Hail Kumar

File in Court on...18/11/08..

Court Officer.

Filed by
Manik Das

Supdt. of P.O.
Cachar Division
Alsha Das
Addl. Secy 03/12/08

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

OA NO 79/07

SHRI AJIT KUMAR RAKSHIT

.....Applicant

-VERSUS-

UNION OF INDIA & ORS

... Respondents

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received copy of the OA and have gone through the same. Save and except the statements, which are specifically admitted herein below, rest may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.
- 2) That the respondents before going through the various paragraphs of the OA beg to give the brief history of the case, which may be considered as part of the Written Statement.

BRIEF HISTORY OF THE CASE

Received copy. 17.1.08
H.O.
(i) The applicant was appointed as Gramin Dak Sevak Branch Postmaster (in short GDSBPM) Swarupnagar Amtala Mobile Branch Office with effect from 18.2.1978 and had worked as such up to 06.04.1987. Further continuance of the said mobile B.O. was not justified its work-load, as fixed by the Department of Posts, India (in short DOP, India) the said mobile B.O. was closed down with effect from 06.04.1987. But the applicant of the OA was not thrown out of employment since a post of GDS Telegraph Messenger at the Lala Sub Post Office was vacant at that time and the applicant was absorbed there and had been working as such since then.

(ii) But due to introduction of Mobile Telegraph Service by BSNL and some other private parties even in Rural/semi-urban areas of the Country the number of telegraphs has been reduced to a great extent which does not justify retention of existing posts in various cadres in the Telegraph Branches of Post Office in urban, semi-urban and rural areas rather such existing posts are returned to be reduced as per standard fixed by the Department of Posts, India which resulted withdrawal of the post of GDA Telemessenger of Lala S.O. It may be mentioned herein that the services of the applicant of this OA can be terminated after giving one month's notice under Rule 8(6) of DOP GDS (Conduct & Employment) Rules, 2001".

(iii) But, on special consideration of his long unblemished service as well as availability of post of GDS Mail Deliverer (in short GDS MD) at the Lala S.O. itself he was offered with an alternative appointment in that post instead of throwing him out from employment.

(iv) But the applicant expressed his unwillingness to work as GDS MD Lala S.O. claiming himself as a handicapped person and wanted to post him as GDSBPM Katlacherra Bazar B.O. Since the said post is not lying vacant he was asked as to whether he was willing to work in any of the vacant posts of GDSBPMs at Paikan B.O., Madan Mohan BO, Saidband Pt II BO on Koyah T.E.BO.

The Department of Posts, India is in a position to absorb the applicant in either of the above vacant posts of GDSBPM but he is unwilling to be absorbed in any of these posts rather desired to continue in the unjustified post of GDS TeleMessenger Lala SO or to appoint him as GDSBPM Katlacherra Bazar BO which is not a vacant post, as already mentioned. In case, he is ordered to join as GDS BPM Katlacherra Bazar BO the present incumbent of the post will certainly sue against the DOP, India.

- 3) That with regard to the statement made in paragraph 1 of the OA, the respondents beg to state that the circumstances under which the applicant cannot be absorbed in his choice place has been elaborately discussed paras (iii) and (iv) of the "Brief history".
- 4) That with regard to the statement made in paragraph 2 and 3 of the OA, the respondents beg to offer no comment.
- 5) That with regard to the statement made in paragraph 4 of the OA, the respondents while denying the contentions made therein beg to state that actual fact of the case has been elaborately narrated in the Brief History of the case.
- 6) That with regard to the statement made in paragraph 5 of the OA; the respondents beg to state that due to non-availability of any records regarding his handicapped he was first ordered to join as GDSMD in the same Lala S.O. But on receipt of his application stating him as a handicapped person he was offered with the post of GDS BPM in any of the 4 BOs mentioned in Para (iv) of the Brief History, since not a single vacant such post is available nearby his choice place to absorb him. In such circumstances, the words illegal, arbitrary etc used by the applicant is quite untrue.

It may however be mentioned here that his prayer for posting him as GDS BPM Katlacherra Bazar B.O. may be considered by the DOP, India if the post falls vacant due to any reason in future.
- 7) That with regard to the statement made in paragraph 6 and 7 of the OA, the respondents beg to offer no comment.
- 8) That with regard to the statement made in paragraph 8 of the OA, the respondents beg to submit that in consideration of the facts of the case and its present position the present OA is liable to be dismissed with cost.

VERIFICATION

I Manik Das....., aged
about 54..... years at present working as
Superintendent of Post offices, Cachar Dn, Silchar
....., who is one of the respondents and taking steps in this case, being
duly authorized and competent to sign this verification for all respondents,
do hereby solemnly affirm and state that the statement made in paragraph
1, 7, 8 are true
to my knowledge and belief, those made in paragraph
2 to 6 being matter of records, are
true to my information derived there from and the rest are my humble
submission before this Humble Tribunal. I have not suppressed any material
fact.

And I sign this verification this 30---th day of Nov. 2007 at Guwahati

Manik Das.
DEPONENT

Supdt. of P.O's
Cachar Division, Silchar-1.