

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 62 of 2005**

Jabalpur, this the 29<sup>th</sup> day of September, 2005

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Kanhaiyalal Murskole, son of  
Roop Lai Murskole, aged about 29 years,  
Occupation – Gramin Dak Sewak, Branch  
Post Office, Belgaon, Newton, Chikhli,  
Tehsil Parasia, District-Chhindwara (MP). .... Applicant

(By Advocate – Shri Rajeev Pandey)

**V e r s u s**

1. Union of India, through  
Secretary, Department of Post & Telegraph  
Services, New Delhi.
2. Director, (Post Services),  
Raipur Regional Office, Raipur,  
Office – Chief Post Master General,  
Chhattisgarh Circle, Raipur (CG).
3. Chief Post Master General,  
Chhattisgarh Circle, Raipur (CG).
4. Superintendent of Post Office,  
Chhindwara Division,  
Chhindwara (MP). .... Respondents

(By Advocate – Shri P. Shankaran)

**O R D E R (O r a l)**

**By Madan Mohan, Judicial Member –**

By filing this Original Application the applicant has claimed the following reliefs :

“(i) that, impugned order dt. 27.12.2004 (Ann. A/7) passed by respondent No. 4 as well as order dt. 22.12.2004 of respondent No.



3 may kindly be quashed by directing the respondents to reinstate the applicant in his service, in the interest of justice,

(ii) that, the respondents may kindly be directed to pay the applicant all back wages and other benefit of service, in the interest of justice.”

2. The brief facts of the case are that the applicant was appointed under the respondents and was working on the post of Gramin Dak Sevak (in short GDS) in Branch Post Office, Belgaon. He was appointed vide order dated 11.9.2002. The Assistant Director (Investigation), Chhattisgarh Circle, Raipur has issued a show cause notice dated 24.5.2002 under Rule 4(3) of GDS (Conduct & Employment) Rules, 2004 stating that on verification by the competent authority it was found that though as per notification dated 30.7.2002 the applicant said to have been found with immovable property and after obtaining certificate from Tehsildar or Patwari, it was necessary to sent it to appointing officer but the applicant has not produced the said certificate and has produced affidavit regarding immovable property of father which is not acceptable as per rules and hence the appointment of the applicant as Extra Departmental Gram Post Master is proposed to be cancelled. In compliance with the aforesaid show cause notice the applicant submitted reply on 14.6.2004 stating that the aforesaid condition of immovable property or alternative source of income has been removed vide circular dated 17.9.2003. The applicant has also filed the sale deed dated 10.10.2004 wherein land measuring area 872 square feet is purchased by him in his name. Therefore, the alleged notice is liable to be cancelled. The respondent No. 4 thereafter acting upon the memo dated 22.12.2004 has cancelled the appointment of the applicant as GDS with immediate effect vide order dated 27.12.2004. The impugned order is passed against the rules and law. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.



4. It is argued on behalf of the applicant that the applicant was duly appointed on the post of GDS by order dated 11.9.2002 and he served on this post with utmost sincerity. There was no complaint against him. A show cause notice dated 24.5.2004 was issued to him stating that he has not produced the relevant certificate of having immovable property in his name and the affidavit regarding immovable property which he has produced belongs to his father and the same is not acceptable according to the rules. As the applicant did not possess the immovable property in his name, his appointment was irregular and was cancelled. The applicant submitted his representation against it and also submitted that the condition of immovable property has been removed by circular dated 17.9.2003 and he has also mentioned that he has purchased land in his name on 10.10.2004 which is supported by a sale deed. But the respondents cancelled the appointment of the applicant on the aforesaid ground of having no immovable property, which is apparently illegal. Hence, the applicant is entitled for the reliefs claimed.

5. In reply the learned counsel for the respondents argued that on review of the case it was noticed that as per notification made on 30.7.2002, the candidates should have independent source of income preferably from immovable property of his/her own with supporting documents to this effect from Tehsildar or Patwari. It was revealed that the applicant did not produce the required certificate and in fact he produced only an affidavit regarding immovable property of his father, which was not in accordance with the rules. Thus, a show cause notice was issued and accordingly the order of cancellation of the appointment of the applicant was issued. The applicant left the post on 27.12.2004 without permission of competent authority by handing over the charge to Shri Arjun Soni Gramin Dak Sewak Delivery Agent/Mail Carrier, Belgaon. Hence, this Original Application deserves to be dismissed.



6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that the applicant was appointed on the post of GDS on 11.9.2002 and he had served the respondents department with utmost sincerity. There was no adverse remark against the applicant on his work, conduct and integrity throughout his service tenure. The only ground shown by the respondents for passing the impugned order of termination of service of the applicant is that the applicant did not possess any immovable property in his name. The certificate regarding the immovable property which was produced on behalf of the applicant was in the name of his father and the same was not found to be sufficient according to the rules by the respondents. The Full Bench of Bangalore Bench of the Tribunal vide order dated 2.12.2002 passed in the case of H. Lakshmana & Ors. Vs. The Superintendent of Post Offices, Bellary & Ors., 2003 (1) ATJ 277, held that the appointment/selection to the post of EDBPM – Possessing of adequate means of livelihood in the circular dated 6.12.1993 of the department is neither an absolute condition nor a preferential condition required to be considered for the aforesaid post. It was further observed that it may not be permissible to debar a citizen from being considered for appointment to an office under the State solely on the basis of his income or property-holding. Since the employment under the State is really conceived to service the people (that it may also be a source of livelihood is secondary) no such bar can be created. Any such bar would be inconsistent with the guarantee of equal opportunity held out by clause (1) of Article 16. The respondents have nowhere stated in their reply that the applicant did not possess the required educational qualification which was required for the aforesaid post. Thus the action of the respondents is not sustainable under the law.

7. Considering all the facts and circumstances of the case we are of the considered view that the impugned orders dated 22.12.2004 and 27.12.2004 passed by the respondents terminating the services of the



