

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT INDORE

Original Application No. 54 of 2004

Indore, this the 29th day of April, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Ms. Sadhna Srivastava, Judicial Member

Lakhan Singh Naagar, S/o. Shri Hiralal
Naagar, aged about 32 years, R/o.
Ranayalkasa, Tonkkhurd, Distt. Dewas. ... Applicant

(By Advocate - Shri V. Tripathi on behalf of Shri S. Paul)

V e r s u s

1. Union of India, through its
Secretary, Ministry of Communication,
Deptt. of Post, New Delhi.
2. The Chief Post Master General,
MP Circle, Hoshangabad Road,
Bhopal.
3. Assistant Superintendent of Post
Offices, Indore Division, Distt.
Indore (MP).
4. Post Master General, Indore Region,
Indore. ... Respondents

(By Advocate - Shri S.P. Singh)

O R D E R

By Ms. Sadhna Srivastava, Judicial Member -

Heard the learned counsel for the parties.

2. After perusing the file of this Original Application, we find that the facts of this case are quite different from other cases as such we are disposing of this case by a separate order.

3. By means of this Original Application the applicant has challenged the order dated 7th May, 2003 (Annexure A-1) and order dated 1st April, 2004 contained in Annexure A-4. As per the facts stated in the OA the applicant has passed his VIIIth standard examination. He was eligible to be appointed on the post of Gramin Dak Sevak Main Carrier/Deliverer (in short GDSMC/D). The applicant was considered

for appointment in accordance with the provisions and therefore, the respondents issued the appointment order contained in Annexure A-2. However, pursuant to his appointment order the applicant has joined the post and he worked with entire satisfaction of his superiors. Thereafter, the respondent No. 3 passed the order of termination dated 7th May, 2003 (Annexure A-1). The counsel for the applicant has submitted that the order of termination has been passed under Rule 8 of Gramin Dak Sevak (Conduct and Employment) Rules, 2001 (hereinafter to be referred as the rules) with the direction that money order will be issued for payment of TRCA. It is further ^{✓argued✓} ~~submitted~~ that the termination order is an order simplicitor and on the face of it, it appears that it is not punitive in nature. Being a civil post holder the applicant is entitled for an opportunity of hearing before passing the termination order. Since the respondent No. 3 has not given any notice and opportunity before passing the impugned order at Annexure A-1, the same is liable to be quashed and set aside. The respondent No. 4 has decided the representation of the applicant by a non-speaking order as such the same is also liable to be quashed.

4. The respondents have contested the claim of the applicant on the ground that the applicant had not been appointed against the post of Gramin Dak Sevak Branch Post Master. It is submitted by the counsel for the respondents that the ex-Branch Post Master when retired from the [✓]post on superannuation with effect from 3.9.2001, he handed over the charge to the applicant untill the regular appointment is made. No appointment letter has been issued in favour of the applicant. It is further submitted that the applicant filed a letter of termination in which it is ^{GSDSA, Depalpur} mentioned that the applicant is terminated from service.

[Handwritten signature]

The applicant was never appointed on the post of GDSDA, Depalpur. Therefore, the termination of the applicant from ^{Depalpur} the post of GDSDA does not arise. It is submitted by the counsel for the respondents that ~~On~~ the post of GDSDA, Depalpur Shri Kalyan Singh Choudhary was appointed on contract basis and his services were terminated by the letter dated 7th May, 2003. In view of this the applicant preferred a false case and is seeking the reliefs on false grounds. Hence, the application is not tenable and is liable to be dismissed with heavy costs.

5. A bare perusal of the ^{alleged} appointment order (Annexure A-2) shows that the Superintendent of Post Offices has directed the Asstt. Supdt. of Post Offices, Dewas to hand over the charge to Shri L.S. Naagar i.e. the applicant, on retirement of the regular incumbent. It is not an appointment order. Moreover the applicant himself has admitted that he ^{passed} has ~~has~~ VIII standard. The minimum qualification for appointment to the post of ^{BPM} GDSDA is High school and the competent authority for issuing the appointment letter is Superintendent of Post Offices and not the Asstt. Superintendent of Post Offices.

It appears that the applicant was permitted to work as ^{BPM} ~~GDSDA~~ under stop gap arrangement. He was never appointed on regular basis. The applicant also does not fulfil the qualification prescribed for the post of ^{BPM} ~~GDSDA~~. The order of termination has been issued under Rule 8 of the rules and also one month's pay has been remitted in lieu of notice of one month. There is no illegality in the order of termination dated 7th May, 2003. Since the applicant was not appointed on ^{the post of GDSPBM} ~~regular basis~~, he has no right to continue on the said post.

6. In view of the aforesaid, we do not find any merit

in this Original Application and the same is accordingly,
dismissed. No costs.

Sadhna Srivastava
(Ms. Sadhna Srivastava)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice Chairman

"SA"

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि आगे रिक्त:-

(1) सचिव, उच्च न्यायालय या एडमिनिस्ट्रेशन, जबलपुर

(2) आदेशक श्री/श्रीमती/शु.....के काउंसल

(3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल

(4) अध्यक्ष, कोषा, जबलपुर न्यायाधीश

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

Issued
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