

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 469/04

~~Bilaspur~~, this the 16th day of March, 2005

C O R A M

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

Pran Nath Mishra
S/o Shri Ram Vilas Mishra
R/o Village & Post Barati
Distt. Rewa (M.P.)

Applicant.

(By advocate Shri V.Tripathi)

Versus

1. Union of India through
its Secretary
Ministry of Communication
New Delhi.
2. The Chief Post Master General
Chhattisgarh Circle
Raipur.
3. The Assistant Director(Vig)
O/o Post Master General
Chhattisgarh Circle
Raipur (CG).
4. Superintendent of Post Offices
Rewa Division
Rewa (MP)
5. The Sub Divisional Inspector (Post Offices)
Sub Division Rewa I
Rewa (MP)

Respondents.

(By advocate Shri S.P.Singh)

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ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following main reliefs:


- (i) Set aside the order dated 12.5.2003 (Annexure A1).
- (ii) Direct the respondents to continue the applicant as if the aforesaid order is never passed.

2. The brief facts of the case are that a notification was issued by the Sub Division Inspector of Post Offices, Rewa on 29.11.1996 inviting applications for the post of Extra Departmental Mail Carrier/Delivery Agent (EDDA for short). The applicant applied for the post and on being selected he joined on 18.1.97 (Annexure A2) at Barati Branch Office of Sub Post Office Manikwar. The service of the applicant was terminated by the Sub Divisional Inspector on 1.12.1999 (Annexure A3) without complying the provisions of natural justice. No reason was assigned. The applicant preferred a representation dated 10.12.99. When no heed was paid by the department, the applicant filed OA No.58/2000. The said OA was decided by the Tribunal vide order dated 7.2.2003 (Annexure A4) directing the applicant to submit a representation. As per the order of the Tribunal, the applicant preferred a representation dated 19.2.2003 (Annexure A5). That representation was decided in favour of the applicant and in pursuance of the order issued by the Inspector of Post Offices, Rewa, the applicant submitted his joining on 9.12.2003 (Annexure A8). Thereafter the applicant received a notice of termination dated 12.5.2003 (Annexure A1) issued by the Assistant Director (Vig.), O/o Chief Post Master General, Chhattisgarh Circle, Raipur. It has been mentioned in the notice that the Superintendent of Post offices has not passed its order dated 17.11.2003 as per the order of the CAT, Jabalpur because the post which was held by the applicant was not vacant. The applicant was appointed on a clear and vacant post after retirement of one

Chura Giri. The Superintendent of Post offices, Rewas did not commit any mistake in directing to appoint the applicant. There was no misrepresentation of fact by the applicant. The applicant furnished correct information and documents to the department. Hence the action of the respondents is arbitrary and illegal. Hence this OA is filed.


3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that the applicant was duly appointed but his service was terminated vide order dated 1.12.99 (Annexure A3) without complying the provisions of natural justice. No opportunity of hearing was given to the applicant and no reason was assigned as to why his services were terminated. When the representation submitted by the applicant was not considered by the respondents, the applicant filed OA No.58/2000. The Tribunal vide its order dated 7.2.2003 directed the applicant to submit a representation and the respondents were directed to consider and decide it by passing a speaking order. In compliance with the directions of the Tribunal, the applicant was appointed as Gramin Dak Sewak Dak Vahak, Parariya Branch Office of Maikwar Sub Post Office. After his joining on the said post, the applicant received the termination notice dated 12.5.03 (Annexure A1). The impugned order is without authority, jurisdiction and competence and contrary to GDS (Conduct & Employment) Rules, 2001. There was no misrepresentation in securing employment by the applicant and therefore, in the event of any procedural error, the applicant cannot be blamed and his employment cannot be snatched for the same.

4. In reply, the learned counsel for the respondents argued that the Employment Exchange, Rewa sponsored two candidates on 28.12.96 including the name of the applicant. Since only two nominations were received from the Employment Exchange till the last date of receiving the application i.e.28.12.96, the vacancy was to be re-notified by the Sub Divisional Inspector, Rewa but instead of doing so, the Sub Divisional officer selected and appointed the applicant. The S.D.I. Posts committed the illegality and irregularity by selecting the applicant on the said post.



Therefore, the reviewing authority reviewed the appointment and directed to terminate the service of the applicant under Rule 6 (a) & (b) of the EDA (Conduct & Service) Rules, 1964 vide order dated 1.12.99. The termination was challenged by the applicant in OA No.58/2000. In compliance with the directions of the Tribunal in the said OA, the S.D.I. (Posts), Rewa appointed the applicant as EDGA/MC, Padari on 4.12.2003. Later on, the order passed by Superintendent of Post Office was reviewed by the competent authority and finding that it was not in conformity with the order passed by the Tribunal, the irregular appointment of the applicant was cancelled by the competent authority. Hence the action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for the parties and carefully perusing the records, we find that the applicant was appointed by the respondents and he submitted his joining report on 18.1.97 (Annexure A2) but his service was ordered to be terminated by order dated 1.12.99 (Annexure A3). Though the applicant had filed a representation, the same was not considered. Thereafter the applicant filed OA No.58/2000 and in compliance with the order of the Tribunal, the applicant was appointed again as EDDA and accordingly he joined on 9.12.2003. Subsequently the respondents have issued the impugned notice of termination (Annexure A1). The applicant has not concealed any fact nor made any misrepresentation. He has submitted all the relevant documents to the respondents and there was no fault on the part of the applicant. If there is any error on the part of the respondents, the applicant should not suffer for it as per the principle laid down by the Hon'ble Supreme Court in a catena of judgments.



6. After considering all the facts and circumstances of the case, we are of the considered opinion that the impugned termination notice dated 12.5.2003 (Annexure A1) is liable to be set aside and quashed. Accordingly, we do so and the respondents are directed to continue the applicant as if the impugned order is not passed.

7. The OA is allowed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठांकन सं ओ/न्या. जबलपुर, दि.
प्रतिनिधि आदेश दिनांक :-
(1) सचिव, उच्च न्यायालय, जबलपुर
(2) आवेदक श्री. ... को कार्रवाई
(3) प्रत्यक्षी श्री. ... को कार्रवाई
(4) वरिष्ठ, ... को कार्रवाई
सूचना एवं आचार्य के कार्यालयी तैयारी

V. K. Singh, B.V. 038
J.P. Singh
B.V. 038
22/8/05

Issued
On 23.03.05
BS