

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 646 of 2004

Indore this the 18th day of October 2005

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

Dilip Singh, S/o. Shri Angad Singh,
Aged 26 years, Occupation – Unemployed,
R/o. Village Pandari, Tehsil & Distt.
Bhind (MP).

.... Applicant

(By Advocate – Shri S.C. Sharma)

Versus

1. Union of India, through :
The Secretary, Ministry of Post,
Govt. of India, New Delhi.
2. The Post Master General, Indore Region,
Indore – 452001 (MP).
3. The Superintendent of Post Offices,
Chambal Division, Morena (MP).

.... Respondents

(By Advocate – Shri V.K. Sharma)

ORDER

By Madan Mohan, Judicial Member –

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

“(A) order dated 14.1.2004 contained in Annexure P-5 may be declared as arbitrary, illegal and against the directions of the Hon'ble Tribunal contained in Annexure A-1 hence may kindly be quashed,

(B) respondent No. 2 may kindly be specifically directed to consider the case of applicant for appointment or absorption in any of the vacancy of the ED Post lying vacant in the Chambal Division, Morena.”



2. The brief facts of the case are that the applicant was selected by the respondents and he was appointed on the post of Extra Departmental Branch Post Master (in short EDBPM) and he had taken over charge as per letter dated 29.8.1996. All of a sudden the respondents issued the order dated 6.3.1997, whereby his appointment was cancelled and the applicant was directed to hand over the charge. The services of the applicant were dispensed with on the excuse of departmentalization. He filed OA NO. 147/1998. The Tribunal accepted the contentions and arguments of the applicant and passed order in the said OA that there is no dispute that the applicant was duly selected as EDBPM. He has also worked on the post on which he was selected. In these circumstances the respondents should have considered offering him suitable alternative job instead of rejecting his request. The copy of the orders of the Tribunal dated 19.12.2002 is Annexure A-1. The applicant submitted representation before the respondents but the representation of the applicant was rejected vide order dated 14.1.2004 (Annexure A-5). The action of the respondents is apparently illegal, arbitrary and malafide because the respondent No. 2 has not considered the directions of the Tribunal. Hence, this Original Application is filed.

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

4. The learned counsel for the applicant argued that he was duly selected on the post of EDBPM and had taken over the charge as per the letter dated 29.8.1996. But all of a sudden the respondents issued an order dated 6.3.1997, whereby canceling his appointment order and he was directed to hand over the charge. His services were dispensed with on the excuse of departmental lapses. Hence, he has filed an OA No. 147/1998. The Tribunal vide its order dated 19.12.2002 (Annexure A-1) held that the respondents should have considered offering the applicant a suitable alternative job instead of rejecting his request. The applicant submitted



representation in compliance with the directions of the Tribunal but it was rejected by the respondents vide impugned order dated 14.1.2004 (Annexure A-5) which is arbitrarily passed in compliance of the aforesaid order of the Tribunal. The respondents should have accommodated the applicant in any other branch in compliance of the aforesaid order of the Tribunal. The applicant is legally entitled for the reliefs claimed.

5. In reply the learned counsel for the respondents argued that the main issue for consideration is whether or not the Branch office is running in loss. As therefore, latest value return for the year 2002-2003 were collected and on the basis of value return the income and expenditure of Pandari BO was calculated for the year 2002-03 from the statistics the BO Pandari was still running in loss to the tune of Rs. 60,125.12 per annum. The Department cannot afford to incur losses by filling of vacant post of BPM Pandari, when the work of which is otherwise being smoothly manned by the existing GDS. Therefore, the representation of the applicant was rejected by the respondent No. 2 under intimation to the applicant. The respondents have duly considered the directions given by the Tribunal but due to the aforementioned reason the applicant could not be accommodated for any alternative job by the respondents. Hence, they have not committed any mistake or fault. Their action is perfectly legal and justified.

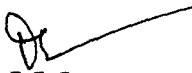
6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the applicant was duly selected on the post of EDBPM and had taken over the charge as per letter dated 29.8.1996 after going through the selection procedure adopted by the respondents. His services were dispensed with by order dated 6.3.1997 on the excuse of departmental loss. The applicant had filed OA No. 147/1998. We have perused the copy of the order dated 19.12.2002 passed in the said OA. In its paragraph 5 the Tribunal has held that "[T]here is no dispute that the applicant was duly selected as EDBPM. It is also clear




from the records that the applicant was duly qualified person to hold the post. He had also worked in the post on which he was selected. In these circumstances, the respondents should have considered offering him suitable alternative job instead of rejecting his request. In the circumstances the respondent No. 2 is directed to reconsider his representation". In compliance of the order of the Tribunal the applicant submitted representation but it was rejected by the impugned order dated 14.1.2004 (Annexure A-5) on the ground that the main issue for consideration is whether the post of EDBPM can be filled up or not when the EDBO is still running in loss. As per latest consolidated value return on the basis of which income and cost is worked out was taken during the year 2002-03 and it was found that Rs. 60,185.12 was the loss incurred by the Department. The department cannot afford to incur loss by filling up the vacant post when the work of which is otherwise being smoothly manned by the existing EDMC/BA. The Tribunal vide its order dated 19.12.2002 in OA No. 147/1998 has clearly mentioned that the respondents should have considered offering the applicant suitable alternative job instead of rejecting his request. The respondents have so many branches and the applicant could have been offered the suitable alternative job in any other branch. If any branch is running in loss then the Government should take a decision to close the same. The ground taken by the respondents for rejection of the representation of the applicant is unjustified and untenable.

7. Considering all the facts and circumstances of the case the respondents are directed to offer suitable alternative job to the applicant in any of the branch of the respondents as and when the vacancy ~~arises~~ ^{arises}.

8. Accordingly, with the above direction the Original Application stands disposed of. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman