

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH.Original Applications No 956 of 2004

Gwalior, this the 5<sup>th</sup> day of April, 2005.

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

Gajraj Pd. Kurmi S/o Shri Hukum  
Chand Kurmi, aged about 30 years,  
Postman under the office of Sub-  
Divisional Inspector, Post  
Offices, South Sub-division, Damoh.

Applicant

(By Advocate – Shri Sanjay Patel)

V E R S U S

1. Union of India, Through the Principle  
Chief Post Master General, Circle-  
Bhopal M.P. 462012.

2. Asstt. Director East for principle  
Chief P.M.G. circle Bhopal M.P.  
462012.

3. Superintendent of Post Office division  
Sagar, Sagar 470001.

4. Sub-Divisional Inspector Post Offices,  
South Sub-Division Damoh M.P.

Respondents

(By Advocate – Shri Gopi Chourasia on behalf of  
Shri S.A.Dharmadhikari)

O R D E RBy Madan Mohan, Judicial Member –

By filing this original Application, the applicant has sought the following main relief :-

“ii) ...quash the impugned termination order Annexure A-7 in the interest of justice. Because it has been passed with malafide intention and arbitrary manner.”



2. The brief facts of the case are that the father of the applicant was employed under the respondents department and before his superannuation he was declared disabled by the Medical Board and he was retired from service on 20.7.2001. After retirement, the father of the applicant submitted an application for compassionate appointment in favour of the applicant on 30.7.2001 before the concerned authority. Thereafter the respondents have issued an order dated 12.2.2002(Annexure-A-4) and subsequently the applicant was appointed on the post of Postman vide order dated 19.3.2002(Annexure-A-6). Thereafter the respondents have issued termination order on 6.10.2004(Annexure-A-7) without any sufficient reason and even not mentioned any reason behind this termination. Aggrieved by this order, the applicant has filed this OA.

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

4. It is argued on behalf of the learned counsel for the applicant that the father of the applicant retired on medical ground and after the retirement, the applicant was appointed on compassionate ground on the post of Postman vide order dated 19.3.2002(Annexure- A-6). The applicant was continuously serving in the department with full satisfaction and devotion. However, the respondent No.4 has issued the order of termination on 6.10.2004(Annexure-A-7) without assigning any reason. The learned counsel for the applicant has further argued that the applicant was not given any opportunity of hearing and also was not given any show cause notice. The applicant had not made any mistake during his duty.


5. In reply the learned counsel for the respondents argued that the appointment of the applicant on compassionate ground was irregular as per Director General, Department of Posts, New Delhi letter No.14-25/91-ED & Trg. Dated 29.5.1992(Annexure-R-1). According to the

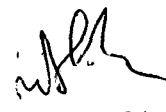


instructions, dependents of GDS employees who retired on declaring physically disabled are not eligible for appointment on compassionate grounds. Hence the appointment order of the applicant was ordered to be cancelled, and on refusal to hand over the charge by the applicant, he was struck off from the post w.e.f. 7.10.2004 vide memo dated 6.10.2004(Annexure-A-1). He has further argued that the applicant was struck off on 7.10.2004 after giving one month TRCA+DA amounting to Rs.2029/-. The learned counsel for the respondents has drawn our attention towards Annexure -R-2 i.e. Department of Posts, Gramin Dak Sevak(Conduct and Employment)Rules, 2001 wherein Rule 8 provides that the employment of any such Sewak can be terminated after giving one month notice.

6. After hearing the learned counsel for the parties and careful perusal of the records, we find that the father of the applicant was declared <sup>Q</sup>invalid on the basis of medical certificate issued by the Medical Board vide letter dated 25.7.2001(Annexure-A-3). After his retirement the applicant was appointed on compassionate ground on 19.3.2002(Annexure-A-6) while according to the order dated 29.5.1992(Annexure-R-1) such appointment on compassionate ground cannot be given to the dependents of EDAs employees who retired on the ground of physical disability. Admittedly the applicant was appointed on compassionate ground by the respondents on declaration of his father as physical disabled by the Medical Board by the respondents. Hence, his appointment was in contravention of the aforesaid letter dated 29.5.1992(Annexure-R-1). According to Section 47 of the Persons with Disabilities(Equal Opportunities, Etc) Act 1995, " Non-discrimination in Government employment - (1) No. establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service : Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits. It further provided that if it is not possible to adjust

the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier." We find that the respondents have followed the aforesaid rules and Act. Hence, the action of the respondents is perfectly legal and justified and the OA is bereft of merits. Accordingly the same is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member


  
(M.P. Singh)  
Vice Chairman

skm

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

पत्तिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय, जबलपुर एसेसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/शु.....के काउंसल
- (4) मंडलपाल, के.प्र.अ., जबलपुर व काउंसिल सूचना एवं आवश्यक कार्यवाही हेतु

 उप रजिस्ट्रार

Sanjay Patel  
Advocate  
J. A. Dharwadkar  
15-4-05  
DN 230

Issued  
on 15.04.05  
BS