

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT CAMP AT GWALIOR
Original Application No. 853/2001

Gwalior, this the 26th day of August, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. A.K. Bhatnagar, Judicial Member

Mahendra Singh Yadav, S/o Shri Sayam Singh
Yadav, Age-35 years, Occupation
Agriculture, R/o Raosar, Teh. Ashok Nagar,
Distt. Guna(M.P)

APPLICANT

(By Advocate - Shri N.K. Saxena)

VERSUS

1. The Union of India through the Secretary
Department of Postal Services, New Delhi.
2. The Superintendent of Post Office, Guna
(M.P.)

RESPONDENTS

(By Advocate - Shri S.P.Singh)

O R D E R

By M.P. Singh, Vice Chairman-

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

"(i) the order Annexure A/1 be quashed with all consequential benefits.

(ii-a) the advertisement dt. 28.8.2001 Annexure A/3 be also quashed."

2. The brief facts of the case are that respondent no. 2 i.e. the Superintendent of Post Offices issued an advertisement calling applications for filling the post of Postmaster in Post Office, Raosar. In pursuance of the said advertisement the applicant had applied for the said post. After selection, he was appointed vide order dated 27.7.2001, and accordingly he joined his services and started functioning. After the appointment of the applicant, his appointment has been cancelled without issuing any show cause notice vide order dated 9.8.2001 (Annexure-A-1). Aggrieved by this, the applicant has filed this OA, claiming the afore-mentioned reliefs.

3. The respondents in their reply have submitted that the post of G.D.S., B.P.M. has fallen vacant w.e.f. 6.11.1997 due to

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retirement of regular B.P.M.. A notification was issued on 7.6.2001 calling for applications for the said post at Raonsar B.O. from the residents of post villages. In response to the said advertisement 8 applications were received. After verification of documents of three candidates, the applicant was selected for the post of Branch Post Master, Raonsar. In the meanwhile the record relating to selection was called for by the Post Master General, Indore Region, Indore for review. The P.M.G. Indore Region, Indore after going into the whole process of selection gave direction vide letter dated 7.8.2001 that the selection of the applicant was not in accordance with the rules and, therefore, ordered to be cancelled with further direction for issue of fresh advertisement for the selection of Branch Post Master, Raonsar. Accordingly, the applicant was relieved from the charge of G.D.S., B.P.M., Raonsar on 10.8.2001. The respondents have further stated that when subsequent notification was issued on 28.8.2001 it was clearly stipulated that the advertised vacancy is reserved for ST candidate. The applicant had also applied for this post but could not be selected. The applicant has no right to claim appointment on such post which was earmarked for a particular community. The respondents have also submitted that it is within the competence of the appointing authority. The applicant had remained as G.D.S. B.P.M. only for 8 days and, therefore, has no ground to claim relief as requested for. Therefore, the respondents have contended that this OA may be dismissed.

4. Heard the learned counsel of both the parties.

5. We have given careful consideration to the rival contentions. We find that the applicant was duly selected for the post of G.D.S., BPM in pursuance to the notification issued by the respondents on 7.6.2001, by following the laid down procedure and he has also taken the charge of the said post on 2.8.2001. Thereafter, he has started functioning on the said post. There was no misrepresentation of facts on the part of the applicant while making his selection for the post of G.D.S.

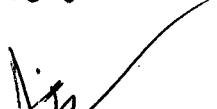
B.P.M. It was only on 9th August, 2001 that the respondents

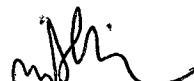
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have found a mistake committed by them and cancelled the appointment of the applicant. No prior notice was given to the applicant. An opportunity of hearing was also not given to him. The respondents have subsequently advertised the post and selected another person. We find that as the applicant has been duly selected for the post of GDS BPM after following the prescribed procedure, therefore, his appointment cannot be terminated without giving any notice. As there was no fault on the part of the applicant, he cannot be made to suffer.

6. In the facts and circumstances of the case we allow this O.A. The impugned order dated 9.8.2001 (Annexure-A-1) is quashed and set aside. The respondents are directed to reinstate the applicant in service against the existing vacancy available at Raonsar or if it is not available, he may be adjusted against the available vacancy at any other place, within a period of three months from the date of communication of this order. However, the applicant will not be entitled to any back wages during the intervening period.

No costs.


(A.K.Bhatnagar)
Judicial Member


(M.P.Singh)
Vice Chairman

rkv.

Copy to Shri N.K. Sarpura, Advocate, Gwalior
② Shri S.P. Singh, Advocate, Bhopal.


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