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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00520/2014

Pronounced on 15-12-2014
Order Reserved on 03.12.2014

...
**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**

...
Krishan Chand son of Sh. Nasib Chand, Aged 29 years, R/o VPO Bangan,
Tehsil Moonak, Distt. Sangrur (Punjab).

... Applicant

Versus

1. Union of India through Secretary cum Director General, Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General (Punjab Circle), Chandigarh.
3. The Assistant Supdtt. Post Offices, East Sub Division, Sangrur.

... Respondents

Present: Sh. Shailendra Sharma, counsel for the applicant.
Sh. Suresh Verma, counsel for the respondents.

ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

- "8 (i) That the order dated 30.5.2014 Annexure A-7 passed by respondent No.3 be quashed.
- (ii) That the respondents be directed to release the salary for the month of June 2013 to Oct. 2013 which has been illegally withheld."



2. Background of the matter is that the respondent Department issued advertisement seeking applications for the post of Gramin Dak Sewak (GDS) in Distt. Sangrur. The applicant applied for the same and his name was forwarded by the local Employment Exchange in the year 2012. The applicant was thereafter appointed as Gramin Dak Sewak (Mail Carrier) vide letter dated 6.8.2012 issued by Respondent No.3. Subsequently, vide letter dated 26.11.2012, Respondent No.3 issued regular appointment letter to the applicant (Annexure A-1) and as per this letter service conditions of the applicant are governed by the Department of Posts, Gramin Dak Sewak (Conduct and Employment) Rules, 2001 and Gramin Dak Sewak (Conduct and Engagement) Rules, 2011 as amended from time to time.

3. Respondent No.3 issued letter dated 25.3.2013 to the applicant to the effect that since the recruitment to the post of GDS at B.O. Bangan has been cancelled by Suptt. Of Post Offices, Sangrur, vide letter dated 18.3.2013, so the applicant was asked to be relieved immediately (Annexure A-2). Against this order terminating his services, the applicant approached C.A.T. Chandigarh Bench through O.A. No.431/PB/2013 and vide order dated 15.5.2013 the O.A. was allowed and the order whereby service of the applicant was terminated was quashed (Annexure A-3). The applicant was then taken back in service but again vide order dated 3.6.2013, Respondent No.3 terminated the

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services of the applicant. The applicant again approached this bench by filing O.A. No.859/PB/2013 and vide order dated 24.6.2013, termination order was stayed. Since Respondent No.3 did not permit the applicant to join, CP No.161/PB/2013 was filed against Respondent No.3. Ultimately, termination order dated 3.6.2013 was withdrawn and the applicant was allowed to join his duties on 25.10.2013. However the salary for the period from June 2013 to October 2013 was not released to the applicant citing principle of no work no pay.

4. The respondents again issued show cause notice to the applicant leveling allegations of irregularities in the recruitment and directed the applicant to file reply (Annexure A-5). The applicant filed a detailed reply to the show cause notice (Annexure A-6). Respondent No.3 vide order dated 30.5.2014 again terminated services of the applicant (Annexure A-7).

5. In the grounds for relief, it has inter alia been stated as follows:

- i. The applicant was appointed as Gramin Dak Sewak on regular basis as per letter at Annexure A-1. The appointment of the applicant was made by following due process of law and in the appointment letter, it was clearly mentioned that the service condition of the applicant was governed by the Department of Posts, Gramin Dak Sewak (Conduct and Employment) Rules, 2001 and Gramin Dak Sewak (Conduct and Engagement) Rules, 2011 as amended from time to time. Hence after the appointment on regular basis, the services of the

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- applicant could not have been terminated without conducting the enquiry or without giving opportunity of hearing to the applicant.
- ii. There was no complaint against the work and conduct of the applicant. The only ground for termination of the services of the applicant was that there was a complaint against the recruitment process whereby the applicant was selected. But neither the copy of the complaint was supplied to the applicant nor the applicant was called upon in the alleged inquiry.
 - iii. Even if it is accepted that there was some procedural lapse in the recruitment process in which the applicant was selected and appointed then also, the applicant cannot be held responsible for the said lapse, and hence his services could not have been terminated. Rather, the respondents ought to have initiated action against the person responsible for lapse, if any. But no such action had been taken by the respondents.
 - iv. The applicant was appointed on regular basis as per appointment letter at Annexure A-1 and no such condition was mentioned in the appointment letter that the services of the applicant can be terminated by giving him one month's notice or pay in lieu of notice. Although it was mentioned that the services were liable to be terminated, but since the applicant was a regular appointee, his services could not have been terminated without giving him show cause notice and opportunity of hearing after regular departmental inquiry. It has further been submitted that neither any show cause notice was given to the applicant nor any departmental inquiry was conducted before passing order of termination. Hence the order of termination is totally illegal.

Hence this O.A.

6. In the written statement filed on behalf of the respondents, facts of the matter as stated in the O.A. have not been disputed. It has further been stated that a complaint leveling irregularities in the recruitment process was received from one Shri



Makhan S/o Shri Bhim Singh, who alleged that he had 12% more marks than the marks secured by the selected candidate/applicant (Annexure R-1). Proper inquiry was made into the recruitment process and grave irregularities were detected therein (Annexure R-2). After the receipt of inquiry report and careful examination, Respondent No.2 vide letter dated 14.3.2013 issued direction to cancel the recruitment and start the recruitment process afresh for the post of GDS MC Bangan B.O. (Annexure R-3). A show cause notice was served upon the applicant to represent against these orders, if desired.

7. The applicant was also afforded an opportunity to make representation against the order of cancellation of his appointment. Shri Makhan S/o Bhim Singh, who had filed complaint, alleging certain irregularities in the recruitment process of GDSMC, Bangan BO, also filed O.A. No.537/PB/2013 before this Tribunal. The complainant had sought directions from the Tribunal to direct the respondents to consider and appoint him as GDSMC, Bangan BO in account with Moonak SO instead of initiating a fresh recruitment because the present applicant (Sh. Krishan Chand) was wrongly appointed without considering the claim of Sh. Makhan as his name was sponsored by the Employment Exchange, Sunam and he had secured 12% more marks than the marks secured by the applicant. The O.A. came to be negatived on 31.3.2014. Further, the applicant took over the charge of GDSMC Bangan on 8.8.2012. As

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he had not completed three years continuous service upto 30.5.2014 i.e. the date of termination of his engagement, the provisions of Rule 8 of GDS (C&E) Rules, 2011 fully cover the case of the applicant. As such there is no infringement of any provision and the action of the respondents is legal, just and fair. The instant O.A. is liable to be dismissed in the interest of justice.

8. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant narrated the background of the matter and stated that the applicant had gone through a proper process of selection. Even if there were flaws in the recruitment process followed by the respondents, the applicant could not be held responsible for the same and hence his services could not be terminated. Even in inquiry report, copy of which had been appended as Annexure R-2, it can be seen that no blame had been placed on the applicant and hence the termination of the services of the applicant was against the principles of natural justice. Moreover, the applicant was being harassed by the Department as this was the third time that the termination order had been issued against him and each time he had to approach this Tribunal for redressal. Learned counsel also stated that Sh. Makhan Singh, who had complained against process of recruitment had also filed O.A. before this Tribunal seeking his own appointment as GDS but that



O.A. had been rejected. He pressed that since there was nothing against the applicant, he should be allowed to continue in service as GDS.

9. Learned counsel for the respondents stated that a complaint had been received against recruitment of GDS, Bangan and inquiry was held in the matter on the direction of SSPO and since findings pointed to grave irregularities in recruitment process, it was decided to cancel the entire process. Although the termination order had been issued earlier against the applicant, this had been withdrawn on account of observations of the Tribunal that proper process had not been followed in the matter. Now, respondents had issued show cause notice to the applicant, he was afforded personal hearing and his detailed representation was also considered. It was only thereafter that the impugned order of termination of the services of the applicant was issued as it was felt necessary to have fresh selection for the post of GDS, Bangan. Learned counsel stated that since full opportunity had been allowed to the applicant regarding his claim, principles of natural justice had been followed and there was no defect in the termination order issued on 30.5.2014 and hence there was no ground for judicial interference in the matter.

10. We have carefully considered the matter keeping in view pleadings of the parties, material on record and arguments advanced by learned counsel. Perusal of the Inquiry Report (Annexure R-2) regarding

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complaint of Sh. Makhan Singh S/o Bhim Singh in respect of recruitment of GDSMC, Bangan BO dated 4.3.2013 shows that effective publicity regarding inviting applications for the unreserved post of GDSMC, Bangan BO did not take place. A Registered letter No.4979 addressed to BPM Bangan was delivered on 10.5.2012 but letter No.B-4/GDSMC/Bangan BO dated 7.5.2012 issued by ASPO, East Sub Division, Sangrur, regarding notification for the post of GDSMC, Bangan BO did not reach him and in fact he found only blank RPLI proposal form in RL No.4979. This also happened in respect of letter No.4981 addressed to Sarpanch, Village Bangan, who also denied having received letter No.B-4/GDSMC/Bangan dated 07.5.2012 issued by ASPO, East Sub Division, Sangrur, regarding notification of GDSMC, Bangan BO. Both these persons did not receive any notification/knowledge about vacant post of GDSMC Bangan BO hence they did not make any publicity in this regard. Hence only candidates sponsored by Regional Employment Exchange, Sunam, in this regard were able to apply for the post of GDSMC, Bangan BO. However, the application of two sponsored candidates Sh. Rajesh Kumar Emp. Regn. No.638/2010 and Sh. Makhan, Emp. Regn. No.635/2011 were received late on 26.6.2012 at the office of ASPO, East Sub Division, Sangrur. Regarding both these applications, it has been concluded in the inquiry report that they were received at Sangrur Post Office on 25.6.2012 which was last date for receipt of applications but

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these could not be further delivered to ASPO, East Sub Division, Sangrur on that date since office of ASP, East Sub Division, Sangrur was locked at 11 a.m. on 25.6.2012 as reported by the Postman No.1, Beat No.1 dated 25.6.2012, on his delivery slip. Hence it is clear that in the absence of adequate publicity and the applications of two of the sponsored candidates not having been received before the last date of receipt of applications by the ASPO, East Sub Division, Sangur as his office was locked on 25.6.2012, only a very limited number of candidates could be considered for post GDSMC including the applicant Sh. Krishan Chand, who was selected and appointed as GDSMC, Bangan BO. It was in view of the findings in the inquiry report that the competent authority in the respondent department decided to cancel recruitment of GDSMC, Bangan BO and directed that the recruitment process be started afresh and this decision was conveyed vide Supdt. Post Offices, Sangrur Division, Sangrur vide Letter No.B-2/GDS Misc./Bangan/12-13 dated 18.3.2013 (Annexure R-6). It was on account of follow up of the letter dated 18.3.2013 that the appointment of applicant as GDSMC was cancelled. The impugned order dated 30.5.2014 has been issued only after issuance of show cause notice to the applicant, considering his reply, and also affording personal hearing to him. Clearly, the recruitment process for GDSMC Bangan was tainted and even though the applicant could not be considered to be at fault in the matter but he has benefited from a



tainted recruitment process. The competent authority has decided to cancel the recruitment process and the appointment of the applicant has been terminated as follow up of this decision. There is no defect in the action of the respondent department or the procedure adopted while terminating the service of the applicant. Hence there is no merit in this O.A. and the same is rejected.

B. A. Agrawal
(DR. BRAHM A. AGRAWAL)
MEMBER (J)

R. Sandhu
(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.
Dated: 15.12.2014.

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