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CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.

O.A.No.060/00092/2014

Date of Decision : 7.4.2015 .
Reserved on: 26.03.2015

CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER

Gurdev Singh son of Bakhtawar Singh resident of Village Tootwala, Tehsil Abohar, presently posted as GDSBPM, Tootwala BO, Maujgarh SO, Tehsil Abohar, District Fazilka.

Applicant

Versus

1. Union of India through its Secretary, Ministry of Communication and Information Technology, Sanchar Bhawan, New Delhi.
2. The Superintendent of Post Offices, Ferozepur Division, District Ferozepur.

Respondents

Present: Mr. Harpal Singh, proxy counsel for Mr. Peeush Gagneja,
counsel for the applicant.
Mr. Ram Lal Gupta, counsel for the respondents

ORDER

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

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking revision of the seniority list of GDSBPM so that the applicant is placed at Sr. No. 176 instead of Sr. No. 191 by considering his date of joining as 22.6.1987. *Ag* ———

2. Averment has been made in the OA that the applicant is working as GDSBPM at Tootwala BO, Maujgarh SO under Superintendent of Post Offices, Ferozepur. The name of the applicant was appearing at Sr. No. 176 and he was receiving all the benefits of service as per rules. As per the service record, the date of joining of service of the applicant is 22.06.1987 and even at the time of surprise visit by the Superintendent of Post Offices, Ferozepur, at Tootwala EDBO on 30.07.1997 and during the inspection carried out by the Superintendent of Post Offices, Ferozepur, vide inspection report bearing No. I.R-3/21/97 dated 30.07.1997 (Annexure A-1), it was recorded that the applicant is working as BPM w.e.f. 22.06.1987. The respondent No. 2, Superintendent of Post Offices, Ferozepur has issued a letter dated 17.09.2013 (Annexure A-2) bearing memo No. A-1/308 that the date of joining of the applicant mentioned in seniority list of GDS corrected upto 01.07.2013 may be treated as 23.12.1987 instead of 22.06.1987 because the name of applicant was approved for the post of GDSBPM Tootwala BO by the competent authority on 23.12.1987.

3. In the grounds for relief it has been stated that in the entire service record, the date of joining of the applicant has been shown as 22.06.1987. Further, no opportunity of hearing has been granted to the applicant, before changing his name in the seniority list, and even otherwise, the period of service rendered by the applicant in the

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department on temporary basis should be considered as qualifying service.

4. In the written statement filed on behalf of the respondents, it has been stated that the post of GDSBPM Tootwala BO fell vacant on the absorption of one Sh. Mangla Ram to the cadre of Group 'D' Fazilka. Since it was considered to manage the work by engaging the person on temporary/provisional basis for smooth functioning of the Branch office, the applicant was engaged on purely temporary basis on 22.6.1987 (Annexure R-1). Subsequently, the recruitment process for filling the post of BPM Tootwala was initiated and the applicant also applied for this post. His name was finally approved by the appointing authority and appointment letter was issued on 23.12.1987 (Annexure R-6). The name of the applicant was incorporated in the Seniority List maintained in the Division but the date of joining of the applicant against the post of GDSBPM Tootwala was inadvertently mentioned as 22.06.1987 instead of 23.12.1987, which was the actual date of his regular engagement. As a result, he was placed at Sr. No. 176 in the Seniority List (Annexure R-9) erroneously. These documents support the contention that the applicant was regularly engaged on 23.12.1987 and he was not appointed on regular basis prior to that date. Had he been appointed on the post on regular basis w.e.f. 22.06.1987, then there would be no reason for him to file application dated 19.12.1987 (Annexure R-4). This irregularity came to notice in October, 2013 when recruitment process of filling up the post

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of Multi Tasking Staff amongst the GDS staff on seniority-cum-fitness basis was initiated and task of verification of service particulars of all the applicants falling in the zone of consideration was initiated. Corrective measures were taken to rectify the irregularity. Seniority list of GDS corrected upto 01/07/2013 was modified vide Memo No. A-1/308 dated 17/09/2013 (Annexure A-2) and accordingly position of the applicant came to 191 from 176. The action of the respondents in adopting the corrective measures is legal, valid and in conformity to rules.

5. Arguments advanced by the learned counsel for the parties were heard when they reiterated the content of the OA, the rejoinder and the written statement respectively. Learned counsel for the applicant stated that the applicant had not been given the opportunity of being heard while changing his date of appointment as shown in the Seniority List from 22.6.1987 to 23.12.1987. He cited **Jitu Ram and Ors. Vs. State of Punjab and anr., 2012(4) SCT 708** and **Swarna Rani Vs. State of Punjab, 2001(3) SCT 687** to buttress his contention that an adverse order could not have been passed against the applicant without affording him an opportunity to be heard.

6. Learned counsel for the respondents stated that the regular appointment of the applicant only became effective from 23.12.1987 and prior to that he was working against the post of BPM as a stop gap arrangement. Hence, the seniority of the applicant could only be

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recorded from the date of his selection on regular basis which was 23.12.1987 and hence there was no merit in this OA. 29

7. We have carefully considered the matter. From the material on record, it is quite clear that the initial appointment of the applicant on 22.6.1987 was provisional and made in order to carry on the work of GDS Tootwala since a vacancy has arisen there. The process of regular selection commenced thereafter, the applicant participated in the same, and was ultimately was appointed as GDSBPM Tootwala on 23.12.1987. Hence, his position in the seniority list taking into account the date of 23.12.1987 has been correctly recorded. There is no merit in his plea that the Seniority List should mention his date of appointment as 22.6.1987. OA is rejected. No costs.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh

Dated: 7.4.2015 .

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