

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH**

OA. 060/00022/2014
(Reserved on 11.11.2014)

Chandigarh, this the ^π14 day of November, 2014

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

...
Gurdev Singh S/o Sh. Jagga Ram, resident of Village Bassian, Post
Office Thana, via Noorpur Bedi, District Ropar, Punjab.

.....Applicant

BY ADVOCATE: MR. ROHIT SHARMA

VERSUS

1. Union of India through the Secretary, Government of India, Ministry of Communications and Information Technology, Department of Posts, New Delhi.
2. Chief Post Master General, Punjab Circle, Chandigarh.
3. Senior Superintendent of Post Office, Chandigarh.
4. Assistant Superintendent of Post Office, Ropar, Punjab.

.....Respondents

BY ADVOCATE: MR. DARSHAN GUPTA PROXY COUNSEL
FOR MS. MOHINDER GUPTA



ORDER**HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-**

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

“(i) Quash the notice/advertisement dated 27.11.2013 (Annexure A-1) vide which process has been initiated for filling up the post of GDS BPM Kalwan BO in account with Nurpur Bedi Post Office under HO against which the applicant is working which is illegal and arbitrary as applicant is working on said post on regular basis and single post cannot be reserved as it would amount to reservation of a solitary post to the extent of 100% which is against the law.

(ii) Issue direction to the respondents to allow the applicant to work as GDSBPM Kalwan BO in account with Nurpur Bedi Post Office under HO and not to disturb him and issue a formal order of regular appointment with all the consequential benefits.”

2. Averment has been made in the OA that the applicant joined as Extra Departmental Delivery Agent (MD) at Branch Post Office Jhaj, Nurpur Bedi, District Ropar on 1.5.1991 (Annexure A-2). Later, one post of EDBPM became available on retirement of Sh. Ved Parkash Sharma at Kalwan and the applicant was asked to work as EDBPM Kalwan with immediate effect vide order dated 26.12.2003 (Annexure A-3). There was no mention in this order that this was a temporary or short period appointment. Now, ten

NS —

198

years later, the respondents had issued advertisement /notice vide letter dated 27.11.2013 (Annexure A-1) for filling the post of GDSBPM Kalwan BO in the pay scale of Rs. 2745-50-4245 ignoring the fact that the applicant had been working on this post. Also, this is a solitary post which has been reserved for SC category which is not permissible as reservation of single post would amount to 100% reservation which is not permissible. It has further been stated that the applicant submitted a representation dated 09.12.2013 (Annexure A-4) that he has been working as GDSBPM against the advertised post since 2003, and since then he has been requesting for regularization of his services as such, but to no avail. He had also been delivering mails in seven villages with distance of about 32 kms daily. It has been claimed that the post of GDSBPM Kalwan BO in account with Nurpur Bedi Post Officer under HO is already filled up in as much as the applicant is working against this post on regular basis but ignoring this, the post had been advertised and sought to be filled afresh.

3. In the grounds for relief, it has inter alia been stated that the instructions contained in DG Posts letter dated 21.10.2002 provide for a provisional appointee to be placed on a waiting list

hs —

298

for being considered for regular appointment after he/she has completed three years of continuous employment. Since the applicant had been working for more than ten years on the regular post of BPM (GDS) and his services were required to be regularized after completion of three years of continuous employment as a provisional arrangement, yet the respondents have impliedly decided to illegally dispense with his services by trying to fill the post which is against the said instructions issued by the respondents.

4. In the written statement filed on behalf of the respondents, the facts of the matter have not been disputed. It is stated that as per extant instructions regulating substitute/provisional/temporary arrangements made in place of regular GDSs, it is expedient to explore arrangements by managing work by combining duties. In single handed BOs, the work shall be managed by giving combined duty to GDS MD/MC of the neighboring Branch Offices. In long term arrangements, the combination of duties as described herein will be resorted to, substitute will be allowed if work load and financial position of the BO justifies such arrangement or filling up of the post. *As* —

5. It has further been stated that Sh. Som Nath has been engaged as GDS MD/NC Kalwan BO while the applicant was engaged as GDS MD Jhaj BO. Sh. Som Nath being less qualified (middle standard) was not considered appropriate for efficient discharge of duties of GDSBPM at Kalwan BO for temporary arrangement. The applicant being a matriculate was considered appropriate for discharge of duties of GDSBPM Kalwan BO. The arrangement is in conformity to Postal Directorate letter No. 22-11/2003-GDS dated 26.9.2003. Accordingly, the applicant was made to work as GDS BPM Kalwan BO alongwith delivery work of Kalwan BO by combining the duties of both GDS BPM and GDS MD/MC of Kalwan BO while Sh. Som Nath was ordered to work as GDS MD Jhaj BO in place of applicant. The work of exchange of mail bags of Kalwan BO was entrusted to GDS MC Jhaj.

6. It is further stated that since the post of GDS MD Jhaj BO also fell vacant due to absorption of Sh. Som Nath GDS MD Kalwan to MTS Cadre w.e.f. 14.11.2011, therefore, there is necessity of incumbent for discharge of duties of GDS MD Jhaj BO. The applicant shall be repatriated to his parent post i.e. GDS MD Jhaj BO after termination of temporary arrangement or completion of

As —

recruitment process of GDSBPM Kalwan BO. The applicant submitted representation dated 07.06.2006 followed by other representations dated 04.02.2011 and 12.12.2013 for appointment of GDSBPM Kalwan BO. There are no such provisions/instructions to accommodate the applicant (who is recruited to the post of GDS MD), to the post of GDSBPM. Therefore, representations were considered and filed by the competent authority. In order to improve/upgrade the functioning of the Post Offices, meet the present day requirement of specialization in Postal Office Management in the wake of introduction of technology, challenges from market and to increase productivity, the Department has undertaken implementation of Rural ICT Project where GDS BPMs shall be provided hand held devices with bio-metric identification. With this backdrop, Directorate has directed to fill up all the vacant posts of GDSBPMs in a time bound manner. Directorate letter No. 17-103/2007-GDS dated 11.6.2013 is annexed as Annexure R/1. The instant recruitment process initiated vide Annexure A/1 is, thus, in accordance with the said instructions. *ls —*

7. Arguments advanced by the learned counsel for the parties were heard when learned counsel for the applicant narrated the background of the matter. He also stated that the claim of the applicant was similar to that decided vide order dated 30.9.2014 in OA No. 1634-HR-2013 titled Sushma Sahni Vs. UOI & Ors. The applicant had been working as GDSBPM for more than ten years at Kalwan and hence he was entitled to be regularized as such. There was no need to revert the applicant to GDS (MD) Jhaj at this stage. The posts of GDS (MD) and GDSBPM are virtually interchangeable and if the applicant was treated as GDSBPM, Kalwan,, the Department could fill the post of GDS (MD) Jhaj instead.

8. Learned counsel for the respondents reiterated the content of the written statement and sought to justify the reversion of the applicant as GDS(MD), Jhaj.

9. We have given our thoughtful consideration to the matter. Since the applicant has been working as GDSBPM, Kalwan BO for more than ten years and the order dated 29.6.2003 does not make any reference to this being a temporary arrangement, the

As —————

OA. 060/00022/2014

applicant is entitled to be treated as regular EDBPM, Kalwan.

Hence, this OA is allowed and the advertisement dated 27.11.2013

is quashed. No costs.

(RAJWANT SANDHU)
MEMBER(A)

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

Dated: November 14, 2014.

ND*