

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00951/2016

DATED THIS THE 23RD DAY OF AUGUST, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID...MEMBER (J)
HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Panduranga Joshi,
S/o Rama Rao Joshi,
Aged 46 years,
Ex GDS BMP, Jamgi BO,
a/w Santhpur SO,
Bhalki – 585 328,
Residing at Jamgi,
Aurad Taluk – 585 421.

... Applicant

(By Advocate Shri A.R. Holla)

Vs.

1. The Union of India,
By Secretary,
Department of Posts,
Dak Bhavan,
New Delhi – 110 001.

2. Post Master General,
N.K. Region,
Dharwad – 580 001.

4. The Superintendent of Post Offices,
Bidar Division,
Bidar – 585 401.

...Respondents

(By Shri S. Prakash Shetty, Senior Panel Counsel)

ORDER (ORAL)

HON'BLE PRASANNA KUMAR PRADHAN, MEMBER (A):

The applicant has filed the present OA seeking the following reliefs:

- i. *To quash the Order No. BDR/F-III/3/2013-14 dated at Bidar-1, the 20.04.2016, Annexure-A4, to the extent it continues the POD period of the applicant with the existing compensation amount as ex-gratia, is concerned,*
- ii. *Direct the respondents to make payment of full pay and allowances to the applicant for the period from 21.11.2013 to 26.07.2016.*

2. The applicant was appointed as GDS BPM in January, 1993. He was placed on put off duty by the Inspector of Posts vide order dated 21.11.2013 presumably in contemplation of disciplinary proceedings (Annexure-A1). According to the applicant, the said order placing him on put off duty was not ratified by the Respondent No. 3 as required under the GDS (C&E Rules), 2011. Neither he was furnished a reason for placing him on put off duty nor was issued a charge memo. Therefore he submitted a representation to Respondent No. 3 in January, 2015 with a request to reinstate him (Annexure-A2) which was not considered. Further no review was held in regard to his continuation of put off duty as required under the GDS (C&E) Rules, 2011. Accordingly the applicant approached this Tribunal in OA No. 170/00601/2015. This Tribunal vide order dated 22.02.2016 (Annexure-A3) held that the review of put of duty was not done in the case of the applicant though required to be done within 90 days and hence the respondents' action was not according to law. The respondents were therefore directed to reinstate the applicant with a liberty to place him on put off duty again and complete the inquiry proceedings within six months. The Respondent No. 3 issued an order on 20.04.2016 stating that the period of put off duty of the applicant has been reviewed and decided to continue put off duty with existing compensation amount as ex-gratia (Annexure-A4). Thereafter he was permitted to take over the charge of BPM on 26.07.2016 (Annexure-A5). The

applicant was placed on put off duty again on the same day vide order dated 26.07.2016 (Annexure-A6). Thereafter an inquiry was held against the applicant and based on the findings of the inquiry Respondent No. 3 vide order dated 26.08.2016 removed the applicant from service.

3. The applicant submits that the applicant was entitled to full pay and allowances for the period from 21.11.2013 when he was placed on put off duty up to 26.07.2016 when he was reinstated. Since the period of put off duty was held as improper, he prayed for granting the relief as sought for.

4. The respondents have filed a reply statement in which they have submitted that the applicant while he was working as GDS BPM came for adverse notice on account of financial irregularity. Consequently he was placed on put off duty by the Inspector of Posts vide order dated 21.11.2013. The said order was ratified on 02.12.2013 by Respondent No. 3 being the superior authority. The applicant was entitled for compensation as ex-gratia payment equivalent to 25% of TRCA together with Dearness Allowance during the period of put off duty. His put off duty was reviewed by respondents on 23.06.2015, 15.09.2015, 29.01.2016, 20.04.2016 and 15.07.2016 and the put off duty allowances which was initially granted continued throughout the put off duty period. Following past work verification of the office and receiving its final report on 20.08.2015 a charge sheet under Rule 10 of GDS (C&E) Rules, 2011 was issued vide letter dated 01.10.2015. No representation was received from the applicant. After holding the inquiry, the Inquiry Officer submitted the report to Respondent No. 3 on 29.04.2016 which was forwarded to the applicant on 29.04.2016 itself and his representation was received on 06.05.2016. However in the meanwhile, the order of the Tribunal

dated 22.02.2016 was received which was implemented on 26.07.2016. The applicant was reinstated on 26.07.2016 and immediately placed on put off duty again. Thereafter the proceedings under Rule 10 was finalized on 26.08.2016 and the applicant was removed from engagement with immediate effect.

5. According to the respondents, this Tribunal while making observation regarding review of put off duty and directing for his reinstatement and completion of disciplinary inquiry within a period of six months did not give any specific direction regarding eligibility of the applicant for pay and allowances for the period of his put off duty. As such, the applicant is not eligible for the full pay and allowances for the said period. Moreover the applicant has been found guilty of the offences and has been removed from engagement. Therefore the claim of full pay and allowances for the period of put off duty does not subsist at all. Hence they submit that the applicant is not entitled to any relief.

6. During the hearing, the learned counsel for the applicant while highlighting the submission made in the OA stated that since the continuation of put off duty was illegal, the Tribunal in its previous order held so and directed for his reinstatement in service. The applicant is entitled to necessary pay and allowances for the said period in which he was illegally kept on put off duty. Therefore he is entitled to the relief sought by him. The learned counsel for the respondents on the other hand submitted that there is no specific directions of the Tribunal for payment of full pay and allowances for the put off duty period. Moreover the applicant was found guilty of the

offences and has been removed from engagement and as such his claim for full pay and allowances for the put off duty period is not justified.

7. We have carefully considered the facts of the case and submissions made by either side. It is evident from the submitted facts that the applicant has been placed on put off duty on 21.11.2013 but no review was undertaken by the respondents for any continuation of put off duty period as provided for under the GDS (Conduct & Engagement) Rules. Only after OA No. 170/00601/2015 was filed on 01.06.2015, a review was undertaken by the respondents on 23.06.2015 for continuation of put off duty. The Tribunal in the said OA, i.e., 170/00601/2015 held that the continuation of put off duty was not in accordance with the law and therefore the respondents were directed for reinstatement of the applicant with liberty to keep him on put off duty again and complete the disciplinary inquiry. Though the order was issued on 22.02.2016, the applicant was reinstated only on 26.07.2016 and he was placed on put off duty once again from that date. The issue in the present OA is whether the applicant is entitled to the full pay and allowances during the put off duty period the continuation of which was not in accordance with GDS (Conduct & Engagement) Rules, 2011.

8. The GDS (Conduct & Engagement) Rules had provided specific instructions on put of duty cases. The Regional Director is required to personally review every month the cases of put off duty of all EDAs and issue appropriate orders in each case. Further the cases of put off duty pending for 6 months or more should be brought to the personal notice of the Postmaster General/Additional Postmaster General who should issue appropriate directions in this regard. In this case the put off duty of the applicant was

never reviewed by the respondents till such time OA No. 170/00601/2015 was filed by the applicant seeking reinstatement. We also note that though the put off duty order was issued on 21.11.2013 the charge memo was issued only on 01.10.2015, i.e., after nearly 2 years. Considering all these facts the Tribunal had asked for reinstatement of the applicant in February, 2016 and this was done in July, 2016. Thus the applicant was kept in put off duty and not allowed to work without any justification, without review of his put off duty and also without issuing chargesheet on him. Therefore the period of put off duty, i.e., from his put off duty till his reinstatement was without any reason and hence we are of the view that the applicant is entitled to full pay and allowances for the said period.

9. Therefore on detailed consideration of facts, we allow the present OA holding that the applicant is entitled to get full pay and allowances during the put off duty period from 21.11.2013 to 26.07.2016. The respondents are directed to release the benefits due to the applicant within a period of 3 months from the date of receipt of a copy of this order.

10. The OA is accordingly allowed. No order as to costs.

(PRASANNA KUMAR PRADHAN)
MEMBER (A)

(JUSTICE HARUN-UL-RASHID)
MEMBER (J)

Ksk

Annexures referred to by the applicant in OA No. 170/00951/2016

Annexure-A1: True copy of Memo No. IP/BLKI/GDS BPM/JAMGI BO dated 21.11.2013 issued by the Inspector of Posts, Bhalki.

Annexure-A2: True copy representation of the applicant dated 21.01.2015 addressed to the Superintendent of Post Office, Bidar.

Annexure-A3: True copy of the judgment of Central Administrative Tribunal, Bangalore Bench dated 22.02.2016 in OA No. 170/00601/2015.

Annexure-A4: True copy of the order No. BDR/F-III/3/2013-14 dated 20.04.2016 issued by the Superintendent of Post Offices, Bidar.

Annexure-A5: True copy of the charge report dated 26.07.2016.

Annexure-A6: True copy of Memo No. PF/GDSBPM/Jamagi BO/Dlgs dated 26.07.2016 issued by the Inspector of Posts, Bhalki.

Annexures with reply statement

Annexure-R1: True copy of Memo No. BDR/F-III/2013-14 dated 26.08.2016 issued by the Superintendent of Post Offices, Bidar removing the applicant from engagement.