

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING:BILASPUR

Original Application No.203/01148/2015

Jabalpur, this Friday, the 07th day of September, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Vinod Kumar Parmar, S/o Shri Shiv Kumar Parmar,
Aged about 25 years,
Resident of Village Darwaja,
Post Ghanaghat Viya Lormi,
Tahsil and Police Station
Lormi, District- Mungeli,
Chhattisgarh, Pin code No. 495115

-Applicant

(By Advocate –**Shri Ajay Kumar Chanda**)

V e r s u s

1. Union of India, through the Secretary,
Ministry of Communication, Department of Posts,
Dak Bhawan, New Delhi, Pin No. 110001

2. The Sr. Superintendent of Post Offices,
Bilaspur Division, District Bilaspur,
Chhattisgarh, Pin No. 495001

-Respondents

(By Advocate –**Shri Vivek Verma**)

(Date of reserving the order:-11.07.2018)

O R D E R

By Ramesh Singh Thakur, JM:-

By way of this Original Application the applicant is challenging the termination order dated 03.07.2014 (Annexure A-4), through which the services of the applicant has been terminated. Hence he has filed this Original Application.

2. The applicant has prayed for the following reliefs in this Original Application:-

“8. Relief Sought:

- (8.1) *That, this Hon'ble Tribunal after perusing the entire record be further pleased to quash the termination order Annexure A/4 passed dated 03/07/2014.*
- (8.2) *That this Hon'ble Court may kindly be pleased to call for entire records from the respondents.*
- (8.3) *That, this Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction in the nature of mandamus/certiorari for quashing the order impugned i.e. Annexure P-4.*
- (8.4) *That, Honble Court may kindly be pleased to issue an appropriate writ/order direction in the nature of mandamus/certiorari directing the respondents to reinstate the applicant in his former post with all consequential benefits.*
- (8.5) *That, the Hon'ble Tribunal be pleased to pass an Order, directing the Respondent No. 2 to consider and decide the Applicant's pending representation dated 19/09/2014, 25/10/2014 and 28/10/2014 (Annexure P/6) at the earliest and in a stipulated time frame.*
- (8.6) *Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner.”*

3. The brief facts of the case are that the applicant was appointed as GDS BPM Dhandhan (Takhatpur) with effect from 06.12.2012 vide order dated 16.05.2013 (Annexure A-2). As the applicant belongs to Scheduled Caste category, he submitted Temporary Caste Certificate issued by competent authority. The validity of that certificate is only for 6 months and therefore the respondents vide their letter dated 07.03.2014 (Annexure A-3) instructed the applicant to submit permanent caste certificate

immediately within a period of 15 days, as the validity of the temporary caste certificate was already lapsed.

4. Learned counsel for the applicant submitted that for issuance of permanent caste certificate he submitted an application before the competent authority, but the same took time and the respondents vide order dated 03.07.2014 (Annexure A-4) terminated the services of the applicant.

4.1 Learned counsel for the applicant further contended that on 01.09.2014 (Annexure A-5) the competent authority issued permanent caste certificate to the applicant. He further submitted that applicant made several representations dated 19.09.2014, 28.10.2014 & 14.10.2015 (filed at Annexure A-6 respectively) but the respondents did not put any heed on the same.

5. The main grounds for challenge in this Original Application is that due to some technical difficulties the permanent caste certificate was not issued to the applicant on time and it is not the fault on the part of the applicant.

6. The respondents have filed their reply, wherein in the preliminary submissions they submitted that this Original Application is not maintainable as the applicant did not avail the remedies available in case of termination and directly approached this Tribunal. Rule 8(1) of GDS (Conduct and Employment Rules)

provides that “the employment of a Sevak who has not already rendered more than three years’ continuous employment from the date of his appointment shall be liable to termination at any time by a notice in writing.

6.1 The respondents further submitted that recruitment for the post of GDS BPM Dhandhan BO was invited only for the SC community. As per rules the applicant got selected and joined on 06.12.2012. The applicant was asked to submit caste certificate at the time of verification. The applicant submitted temporary caste certificate with an affidavit that he will produce permanent caste certificate within 6 months. The respondents vide their letter dated 31.01.2013, 10.04.2013 and 29.01.2013 instructed the applicant to submit permanent caste certificate immediately otherwise his selection will be cancelled. The applicant requested for extra time of 3 to 4 months to produce the same but the applicant did not produce the same till April 2014. The respondent terminated the services of the applicant vide letter dated 30.04.2014 and directed the applicant to submit representation within three days otherwise unilateral action will be taken. The applicant did not produce any satisfactory representation and permanent caste certificate for more than one year. So the services of the applicant was terminated by the official respondents vide letter dated 03.07.2014.

7. In Para-wise reply the respondents submitted that applicant was appointed as a GDS BPM Dhandhan and it has been specifically mentioned in the appointment order that “in case any adverse remarks is reflected in PVR and caste certificate appointment order will be cancelled. The respondent authorities intimated the applicant through several intimation letters dated 31.01.2013, 10.04.2013, 29.04.2013 & 30.04.2014 (Annexure R-1, R-2, R-3 & R-4 respectively) to submit the permanent caste certificate but the applicant did not submitted the same. The applicant neither filed any representation nor any application from 2012 to 01.09.2014 and he preferred representation dated 19.02.2014, 01.10.2014 and 12.09.2014. Subsequently, the respondent authority informed the applicant vide letter dated 01.10.2014 (Annexure A-7) that termination cannot be reinstated.

8. We have heard the learned counsel for the parties and carefully perused the pleadings and the documents available on record.

9. From the pleadings itself, there is no dispute regarding the selection and appointment of the applicant in the category of Schedule caste as Gramin Dak Sevak. It is also not disputed that the applicant has submitted the temporary caste certificate issued by the competent authority to the respondents and the respondent

department after verification has offered appointment to the applicant. The only issue in the instant case is that despite the reminders given by the respondent department, the applicant has not submitted the permanent caste certificate. The contention of the applicant is that the applicant is able to procure caste certificate on 01.09.2014 (Annexure A-5) from the competent authority and the said certificate has been submitted to the respondent department as early as possible. The further contention of the applicant is that despite several representations has been made to the replying respondents, the respondents did not put any heed on the same.

10. It is pertinent to mention that the applicant was terminated on 03.07.2014 (Annexure A-4) and the applicant has procured the permanent caste certificate from the competent authority on 01.09.2014 (Annexure A-5). The mother of the applicant had made application to the Superintendent of Post Office vide Annexure A-8 with a request that her son be taken back who has been terminated on the ground that the applicant did not produced the permanent caste certificate. Thereafter, the applicant vide Annexure A-6 has made representation to the respondent department with a request that the permanent caste certificate be taken into consideration and he may be taken back in the service. Thereafter the applicant had made an appeal to the Director of

Postal Services on 28.10.2014 with a request that he has suffered from leg fracture and the representation given by the applicant vide Annexure A-6 may be considered and the applicant may be taken back in the service. Further the applicant again made representation to the Superintendent Post Office on 14.10.2015 to provide the copy of the decision regarding his reinstatement. Ultimately, vide Annexure A-7 dated 01.10.2014 it has been intimated that the applicant could not produce the permanent caste certificate and his services has been terminated.

11. From the pleadings it is itself clear that the applicant has been terminated on 01.10.2014 vide Annexure A-7. It is also clear from letter dated 14.10.2015, that the applicant has requested the Superintendent Post Office, Bilaspur, to provide him a copy of reply regarding the appeal which was submitted to Director Post Office. So it is clear that till 14.10.2015, the applicant was not able to get any reply regarding his appeal which was addressed to Director Post Office. It is also clear from the pleadings that the applicant has produced temporary caste certificate issued by Tehsildar on 09.07.2012 which has been considered by the Screening Committee of the department. This fact is clear from the reply of the respondent department. The only ground of the replying respondents is that despite the letter dated 31.01.2013,

10.04.2013 & 29.04.2013, the applicant could not submit his permanent caste certificate and resultantly vide order dated 30.04.2014 the services of the applicant has been terminated. It is true that despite various letters the applicant could not produce the permanent caste certificate.

12. The applicant has relied upon the judgement passed by the Hon'ble High Court of Madhya Pradesh in Writ Petition No. 5570/2012 in the matters of **Ku. Vinita Sahu vs. The Union of India and others** dated 14.03.2013 and the judgment passed by Bombay High Court in the matters of **Deepak S/o Nawal Chavan vs. Competent Authority** dated 13.06.1996.

13. From the pleadings it is also clear that despite the best efforts by the applicant, he was able to procure the permanent caste certificate from the competent authority on 01.09.2014 and the applicant has made representation to the respondent department on 19.09.2014. The Superintendent Postal Services has intimated the applicant on 01.10.2014 regarding the application for reinstatement. From the pleadings it is also clear that the applicant earlier produced the temporary caste certificate. So it is not the case where the false caste certificate has been given by the applicant. Despite the repeated representations, the respondent department

has not decided his appeal and ultimately on 01.10.2014 the applicant was made aware regarding the fate of the appeal.

14. It is also the fact that the applicant was diligently making the efforts to procure the caste certificate from the competent authority and this fact should have been considered by the respondents in a prospective way. Needless, to say that this is not a case of false caste certificate and from the respondents, which is the welfare state is expected to deal the case of the employees in proper and in a prospective direction. Particularly in the present case the applicant with leg fracture has able to procure the permanent caste certificate on 01.09.2014. So in this special circumstance the respondent department should have considered the case of the applicant.

15. Resultantly, in view of the above, this Original Application is allowed and Annexure A-4 is quashed and set aside. The respondents are directed that in view of the above the case of the applicant be considered for reinstatement as a special case within a period of 60 days. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member
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(Navin Tandon)
Administrative Member