

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA. 350/1030/2015


Date of Order: 05.12.2017

Present: Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Sri Pradip Saw, son of Sital Shaw, aged about 23 years,
By faith- Hindu, by occupation –unemployed, had
Worked as GDSMD, Tungcharar B.O., under Ranibnadh
S.O., Pin- 722148 and residing at Village + P.O.Kunda-
Puskarini, P.S.Sonamukhi, District- Bankura, Pin- 722207,
West Bengal.

.....Applicant.

-versus-

- 
1. Union of India service through the Secretary,
Ministry of Communications, Department of
Posts, Dak Bhavan, New Delhi-110001.
 2. The Chief Post Master General, West Bengal
Circle, Yogayog Bhavan, C.R. Avenue, Kolkata-
700012.
 3. The Superintendent of Post Offices, Bankura
Division, Pin- 722148.
 4. The Inspector, in the office of the Inspector of the
Post Offices, Khatra Sub-Division, under Bankur
Division, Khatra, Pin- 722140.

.....Respondents.

For the Applicant : Mr. K. Sarkar, Counsel

For the Respondents : None

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Mr. K. Sarkar, learned counsel for applicant is present.

2. None appears for respondents. It is also noticed, that, despite order

dated 21.07.2016, whereby the respondents were given a last chance to produce the records of selection, no such records have been submitted by the respondents.

3. The oral arguments of the learned counsel for applicant is taken on record. Pleadings are complete.

4. Learned counsel for applicant draws our attention to Annexure A-1 to the application wherein the following stated "Pradip Saw should clearly understand that her engagement as GDSMC shall be in the nature of contact to be terminated by him or by the undersigned by notifying the order in writing and his conduct and employment shall be governed by Department of Posts, Gramin Dak Sevak (Conduct and Engagement Rule 2012) as amended from time to time."

It is also seen from the acknowledgement part of said engagement that the applicant had to undertake as follows: "I Pradip Saw, acknowledge the receipt of your Memo No. A-1/Tungcharar B.O/2013-14 dated at Khatra the 12.03.2014 and hereby accept the appointment is in the nature of contact liable to be terminated by notice given in writing".

5. Learned counsel for applicant draws our attention to Annexure A-4 to the application whereby, on 02.05.2015, it has been notified that the "following order of cancellation of the panel lists of selected candidates and recruitment process on the Post of GDSMD Tungcharar BO is issued herewith for the interest of service in C/W notification no. B/SL-19/Tungcharar BO/GDSMD/Selection/2013-14 dated 12.03.2014 for engagement to the post of GDSMD Tungcharar B.O."

6. It is also seen from page no. 5 of the reply of the respondents that they have admitted " as the engagement of the applicant was provisional and on

contractual basis, he was terminated only by giving notice without allowing any period of time or showing any reason as in the instant case of termination no stigma can be said to have been caused to the applicant.”

7. The respondents, while issuing the order of engagement of the applicant and while procuring his undertaking, has noted that the appointment is in the nature of contract liable to be terminated by notice given in writing. Later, however, the respondents have disengaged the applicant immediately on the basis of an order of cancellation of the entire selection process and without giving any opportunity to the applicant to represent against the termination notice or without showing any reason as to the termination order.

8. We feel that in the instant case the principles of natural justice have not been followed while disengaging the applicant and we hereby set aside the notice at Annexure A-4 to the application. The respondent authorities are directed to issue a fresh notice as per Rules.



9. The respondents, while issuing a formal notice to the applicant in this regard, will allow him liberty to represent against the notice if so desired. The grounds of disengagement are to be spelt out clearly. The applicant is at liberty to make a suitable representation against the same. Such revised notice should issue within four weeks of the date of receipt of this order. The applicant is to be allowed two weeks to respond to the same after receipt of the fresh notice. The respondent authorities, will thereafter, dispose of such representation, if so preferred, according to Rules, within four weeks of receipt of such representation and convey their decision to the applicant immediately thereafter. Needless to say, the post of GDSMD, Tungcharar B.O will not be filled up by the Respondents till

disposal of the representation of the applicant in this regard. If, however, the applicant does not prefer any representation against such revised notice, the respondent authorities are at liberty to proceed with the engagement process.

10. Accordingly, the OA is disposed of. Parties are to bear their own costs in this matter.

(Dr. Nandita Chatterjee)

Member (A)

(Manjula Das)

Member (J)

pd

