

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.312/2018.

Date of Decision: 02.05.2018.

CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)

Mr. Vikas Lahu Farad,
Occupation: Service,
Working at Gramin Dak Sevak
MD (Provisional), Khoni BO,
In account with Manpada SO-
Thane 421 204.
R/at Post Khoni, Taluka Kalyan,
Dist. Thane – 421 204.
(By Advocate Shri M.A. Parab)

.... ***Applicant***

Versus

1. Union of India, Through
The Secretary,
Government of India, Ministry
of Communication & Information
Technology, 20 Sanchar Bhawan,
Ashoka Road, New Delhi 110 001.
2. The Senior Superintendent of Post
Offices, Thane Central Division,
Thane – 400 601.
3. The Asst. Superintendent of Post
Office, Kalyan,
Sub-Division Kalyan – 421 301.

... ***Respondents***

ORDER (Oral)

Per : Shri A.J. Rohee, Member (J)

Today Division Bench is not
available. Hence, the matter is taken up
before Single Bench.

2. Heard Shri M.A. Parab, learned
Advocate for the Applicant, when the matter

is called out for Admission. I have carefully perused the case record.

3. The Applicant who was working as Gramin Dak Sevak MD on provisional basis at Khoni Branch Office under Respondent No.3, has grievance regarding the impugned order dated 04.04.2018 passed by the Respondent No.3 (Annexure A-1), by which it is directed that his services shall stand terminated with effect from the date of expiry of a period of one month from the date on which said order/notice is served or, as the case may be, tendered to him. The aforesaid impugned order has been passed in pursuance of Rule 6(a) and (b) of the Post & Telegraph Extra-Departmental Agents (Conduct and Service) Rules, 1964 by the Respondent No.3, who is stated to be the Appointing Authority.

4. In this OA, the following reliefs are sought:

“8.a) This Hon'ble Tribunal be pleased to call for the files with respect to that of the Application and after perusing the legality, propriety thereof, this Hon'ble Tribunal be pleased to issue appropriate order or direction to the Respondents;

8.b) *That this Hon'ble Court by issue of an appropriate order or directions to quash and set aside the Termination Notice of Termination of service dated 4th April 2018;*

8.c) *That this Hon'ble Tribunal may further be pleased to direct the respondents to allow the present applicant to continue in his service forthwith.*

8.d) *That this Hon'ble Tribunal may further be pleased to direct the respondents to pay compensatory cost for this application;*

8.e) *Any other suitable relief to which the applicant may be found eligible and entitled in facts and circumstances of the case may kindly be granted in the interest of justice and equity;"*

5. Interim relief to stay the executing, operation and implementation of the impugned notice of termination is also sought.

6. Record shows that the applicant applied for the post of GDS on regular basis. However, pending the recruitment process, the applicant was provisionally engaged as GDS w.e.f. 13.04.2015 to 30.06.2015 till regular engagement is made. It is stated that this provisional

engagement was extended from time to time and applicant rendered the services. However by the impugned order, his services were illegally terminated without issuing notice to him.

7. It is thus, obvious from record that the applicant is not the regular appointee nor he was on probation. His engagement was purely on provisional basis, till regular person is appointed after completion of recruitment process as per his Appointment order. It appears that one criminal prosecution is pending against the applicant instituted in the year 2010 and hence he apprehends that Police verification report may go against him and he may not be appointed on regular basis. However, it is obvious that it is for the respondents to take appropriate steps in the matter, since the impugned order terminating provisional engagement of the applicant by one month's notice is issued, it appears that the regular recruitment process is completed and select candidate must have been waiting appointment on regular basis as GDS MD at Khoni Branch Office.

8. Perusal of the provisions of Rule 6 of the E.D.A. Conduct and Service Rules shows that the service of an employee, who has not already rendered more than three years' continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice. However in the present case, one month's notice was given to the applicant by way of impugned order of termination. It is also obvious that the applicant was yet to complete three years of continuous service since he was provisionally appointed as GDS on 13.04.2015. Hence, it is obvious that there is substantial compliance of the provisions of Rule 6 before terminating the services of the Applicant.

9. It is needless to say that even the services of a probationer appointed on regular basis can be terminated by one month's notice. As such, the Appointing Authority cannot be said to be not competent to terminate the provisional engagement of the applicant by one month's notice by taking recourse to the provisions of P&T GDS

(Conduct and Service) Rules, 1964. The Applicant must have been paid salary as per rules for the services rendered, for which no grievance is made in this OA. Further competence of authority issuing termination order is also not challenged in the OA.

10. From the above discussions, it cannot be said that there are any grounds to interfere with the impugned order of termination, although its consequences will be fatal, since the applicant will lose his provisional engagement as GDS on completion of one month from the date of service of the impugned order. As such, no relief can be granted to the applicant.

11. During the course of arguments, learned Advocate for the Applicant relied on a decision dated 08.02.2018 rendered by Hon'ble High Court of Bombay Bench at Aurangabad in **WP No.7799/2017, Rajkumar Ratilal Nikam Vs. Union of India & 4 Ors.**, in which the petitioner was appointed by the respondents on the post of Constable/Tradesman under appointment order dated 12.08.2015. However by the order dated 25.10.2016, the petitioner was terminated. The said order

was assailed before the Appellate Authority. However, the Appeal was dismissed against which writ petition was filed. However, in that case, the ground for termination was suppression of the fact of criminal prosecution pending against the petitioner. In the present case, the applicant is provisionally engaged that is not on regular basis and hence it cannot be said that he was a probationer or that the decision relied upon by the applicant is in any manner helpful to him, for the reasons that his services were not terminated for suppression of fact of pending criminal prosecution. In any case, no relief can be granted to the applicant.

12. The OA, therefore, stands ***dismissed in limine***.

13. Registry is directed to forward certified copy of this order to both the parties at the earliest for information and for taking appropriate steps in the matter, if required.

(A.J.Rohee)
Member (J)

dm.