

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 781 of 2014

**Present : Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (A)**

Susmita Patel, aged about 32 years, W/o Shri Dularam Naik,
At/PO – Talpatia, Via – OMP, Jharsuguda, Dist. – Jharsuguda
(Odisha).

.....Applicant

VERSUS

1. Union of India represented through the Secretary, Department of Post, Government of India, New Delhi.
2. Superintendent of Post Office, Sambalpur Division, At/PO/Dist. – Sambalpur.
3. Post Master, Jharsuguda GPO, At/PO/Dist. – Jharsuguda.

.....Respondents.

For the applicant : Mr.K.M.Patra, counsel

For the respondents: Mr.D.K.Mallick, counsel

Heard & reserved on : 6.3.2019

Order on : 11.3.2019

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The applicant, in this OA, has prayed for the following reliefs:-

- “(i) In view of the facts stated in para 6 above, the Hon'ble Tribunal may be pleased to direct the Respondent No.2 to release the applicant's arrear salary for the period from February, 2011 to 23.3.2014 that being the period of termination along with other financial benefits and or may pass any other order/orders as deemed just and proper.
 - (ii) To quash the order letter dt. 15.9.2014 of the Superintendent of Post Offices, Sambalpur Division, Sambalpur and admit this OA.”
2. The applicant was appointed as a Gramin Dak Sevak (in short GDS) vide order dated 31.6.2010 (Annexure-2) after being selected for the said post vide order dated 13.5.2010 (Annexure-1). One of the condition mentioned in the appointment order was that it can be terminated by either side by informing the other side and that her service is also governed by the GDS (Conduct & Employment) Rules, 2001 as amended from time to time.

3. While the applicant was discharging her duty, she was asked to hand over the charge on 20.1.2011 after serving the termination order dated 17.1.2011 (Annexure-3). The applicant challenged the same by filing the OA No. 42/2011 and the Tribunal vide order dated 5.12.2011 (Annexure-5) quashed the termination order dated 17.1.2011. Thereafter, the respondents challenged the Tribunal's order before Hon'ble High Court and the Writ Petition filed by the respondents was dismissed by Hon'ble High Court on 27.1.2004. Then the applicant was reinstated in service on 24.3.2004.

4. After reinstatement in service, the applicant submitted a representation dated 8.9.2014 (Annexure-7) claiming salary for the period from February, 2011 till 23.3.2014 since termination of her service was found to be illegal.

5. The respondents in their counter have opposed the OA. It is averred that the termination of service was done after reviewing the selection of the post of GDSBPM Talpatia and the competent authority decided to terminate her services by paying one month TRCA under the rule 8 of the Rules, 2001. She was subsequently reinstated as per the order of the Tribunal. It is the case of the respondents that since she had not worked during the period of termination, she is not entitled to any pay and allowances on the principle of 'no work no pay'.

6. The applicant has filed Rejoinder stating that the absence from duty was not due to fault of the applicant and it was due to unilateral action of the Respondents and such illegal order was quashed by the Tribunal.

7. We have heard learned counsel for both the sides and also perused the pleadings on record. On perusal of the order dated 5.12.2011 of the Tribunal (Annexure-5), it is seen that in OA No. 42/2011 the applicant had prayed for quashing the termination order dated 17.1.2011 and for directing the respondents to reinstate her to the post with all consequential service and financial benefits retrospectively, as revealed from the order dated 5.12.2011.

The Tribunal in the aforesaid order had only allowed the relief of quashing the termination order. The order dated 5.12.2011 stated as under:

“.....Hence the impugned orders of termination in all the OAs are hereby quashed and the Respondents are directed to reinstate the applicants (who are by now out of employment) to their respective posts forthwith.....”

It is clear from above order that the relief of consequential service and financial benefits were not allowed. The said order has been upheld by Hon'ble High Court and the applicant has not challenged the fact that the consequential benefits as claimed in OA No. 42/2011 were not allowed by the Tribunal.

8. In addition, the ground mentioned by the respondents that during the period in question, the applicant has not discharged any duty. Hence, the principle of 'no work no pay' will apply. Moreover, under the Rules the engagement of the GDS is not on full time basis. There is nothing on record to show that the applicant had not undertaken any other engagement in lieu of GDS during the period when she was out of engagement as GDS.

9. In view of above discussions, we do not find adequate justifications to interfere in the matter. Accordingly, the OA is liable to be dismissed. Hence, it is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

I.Nath