

**Central Administrative Tribunal
Lucknow Bench, Lucknow**

Original Application No. 332/00184/2017

Order reserved on: 14.11.2018

Pronounced on: 14.12.2018

The Hon'ble Mr. Devendra Chaudhry, Member (Administrative)

Mohd. Shafeeq, aged about 24 years, son of Late Shri Raees Ahmad, Resident of-Village- Jai Nagra, Post-Kauwapur, District-Balrampur.

.....Applicant

By Advocate : Sri Praveen Kumar.

Vs.

1. Union of India through the Chief Post Master General, UP Region, Lucknow.
2. The Director, Postal Services (HQ), Lucknow.
3. The Superintendent of Post Offices, Balrampur Division, Balrampur.
4. The Assistant Superintendent of Post Offices, Balrampur Division, Balrampur.
- 5.

.....Respondents

By Advocate: Sri Ram Bilash Verma.

Order

Delivered by: Hon'ble Mr. Devendra Chaudhry, Member (A)

The present Original Application (OA) has impugned the order dated 21.04.2017, rejecting the representation of the Applicant for compassionate appointment to the post of Gramin Dak Sewak (GDS) on the ground of minimum educational qualification i.e. 10th standard not being obtained from a recognized Board.

2. The case of the applicant in brief is, that his father late Shri Raees Ahmad expired while working on the post of Branch Post Master, Kauwapur Post Office under the respondents on 02.09.2006. That the Applicant on attaining the majority in the year 2011, approached the respondents for seeking his claim for compassionate appointment having passed the Maulavi Examination (equivalent to High School) from UP Board of Madarsha Education, Lucknow, as also Alim Examination (which is equivalent to Intermediate). That, accordingly several representations were sent on 04.06.2014, 21.07.2014, 22.09.2014 etc. by the Applicant were however rejected vide letter dated 21.04.2017 (impugned order) stating the reason as being lack of adequate

qualification in light of Department of Post order No. 17-39-6/2012-GDS dated 14.01.2015. That, the view held by the respondents that the Maulvi Examination is not equivalent to 10th standard is erroneous, as, vide DOP&T circular dated 23.02.10 (Annexure-6) the recognition of certificate/qualification issued by State Madarasa Education Board for the purpose of employment under the Central Government, has been clearly validated in Para-III. The same is reproduced below for clarity:

“..UP Madarasa Education Board, Lucknow, UP is equivalent to Munsifi, Moulvi for Class-10 and Alim for Class-12.”

That, since the Ministry of Post is guided by the Ministry of Personnel, Department of Personnel and Training of the Ministry of Personnel, Public Grievances and Pension of the Government of India, therefore, the same would abinitio ipso facto also apply to cases of Postal Department and hence to appointment under compassionate cases in the Postal GDS should be considered by the respondents and since that has not been done, hence the OA.

3. The respondents on the other hand have contended in their Counter Reply that the deceased employee Sri Raees was not regular departmental employee but GDS and that since GDS is not a departmental employee and therefore, not governed by DOP&T rules but by special Service Rules framed for the purpose by Department of Post and Telegraph, therefore, the service rules of GDS cannot be replaced by the DOP&T rules on applicant's choice basis and therefore the circular of the DOP&T is not applicable on the Applicant and thus since the requisite 10th standard passed, specified by Madarasa Board, does not have existence in GDS recruitment condition, therefore the OA is liable to be rejected and dismissed on grounds of lack of required educational qualification of Applicant.

4. I have heard the Ld. Counsel of both the parties and examined the material on record carefully.

5. At the outset, Learned Counsel for the Respondents raised an issue regarding jurisdiction of the Tribunal with respect to GDS who according to Learned Respondent Counsel are not Central Government employees and therefore cannot be covered under the Section 14 of the Administrative Tribunals Act-1985 (hereinafter referred as Act) and for the same reason, the DOP&T circular could not be applied to the Applicant's case. Against this Applicant's Ld. Counsel has filed ruling of Ahmadabad Bench of this Learned Tribunal in the case of Amritlal Chhaganlal vs. Senior Superintendent of Post Offices, Junagarh and others in which the case of the GDS worker has been taken cognizance of and dealt with accordingly. Rulings of Hon'ble Apex Court in the matter of Superintendent of Post Offices Vs. P.K. Rajamma etc. and Ajay Vir Singh and two others Vs. UOI of the Hon'ble High Court Allahabad further support this issue. The Learned Counsel for the Respondents has pointed out that in the above cases while the matter of GDS worker have been taken up, however, nowhere the issue of the jurisdiction of the CAT with

respect to the GDS employee being Central Government employee has been dealt with specifically. That just because the matter has been taken up in the Tribunal does not directly conclude or lead to conclusion that the worker concerned is under the purview of service matter pertaining to service in connection with the affairs of Union and so covered by the Act.

On hearing both sides on the issue of jurisdiction and examination of quoted rulings, it emerges that it is true that the principle of jurisdiction has not been assailed. However the GDS related cases have been dealt with by various Tribunals as also by the Hon'ble High Courts and Hon'ble Supreme Court from time to time in Writ Petition and in SLP jurisdiction, nowhere the issue of jurisdiction been assailed by anybody. The Respondent counsel has on the other hand not submitted any unassailable document to support his claim beyond a shadow of doubt as the OMs of date 18.04.2011, 14.01.2015, 20.05.2017, 30.05.2017, etc are not addressing this issue directly and only pertain to directions w.r.t engagement of GDS workers per se. In the event therefore, presently the matter is liable to be considered in the Tribunal as has been done in the earlier cases by this Tribunal and other Tribunals. If at any occasion later, such documents are filed, then the same would be looked into on merits.

6. Now to advert to the facts of the case. The claim of the applicant is very simple and that is that he holds a qualification validated by the Ministry of Personnel, Public Grievances and Pensions (MoPPP) vide its OM dated 23/02/2010 (Annexure A-6) wherein the equivalence of the UP Board is specified w.r.t Munshi, Maulvi, etc qualification. The respondents continue to deny this validation as far as GDS are concerned on the ground that as mentioned in para-B of OM dated 14.01.2015 (CA-1), only 10th standard pass is mentioned and no equivalence is mentioned whatsoever. It will be useful to reproduce the same here for clarity:

"...B. (i) Secondary School Examination pass certificate of 10th standard conducted by any recognized board of school education in India shall be a mandatory educational qualification for all approved categories of Gramin Dak Sewaks referred to in Rule 3 (d) of the GDS (Conduct and Engagement) Rules, 2011 as amended from time to time..."

On examination of above it is clear that while there is no equivalence of 10th standard with Maulvi etc mentioned explicitly, it is also evident that the existence of the DoPT circular dated 23.02.2010 also cannot be brushed under the carpet. Respondents have also not placed on record, any appropriate clarification which would help conclude that DoPT circulars are not applicable for GDS engagement on compassionate or other grounds and **only the specified Rules are applicable** (emphasis supplied). Hence there is no choice left with the Court except to give benefit of doubt and positively consider existence of equivalent qualification circular of DoPT as adequate proof because it cannot be disputed that the OM of 14.01.2015 specifying qualification of GDS is issued by Department of Posts, Ministry of Communications & IT, Govt of India (GoI) and the DOPT circular of 23.02.2010 is also issued by the

MoPPP, GoI, which implies that the authorizing entity for the issue of OMs is same in both the cases (that is GoI for OMs dated 23.02.10 and 14.01.2015).

7. In conclusion therefore the plea of applicant is liable to be considered positively. Hence the OA is liable to succeed and succeeds. Respondents are directed to consider case of the applicant accordingly treating Maulvi examination as equivalent of Class 10th standard for the purpose of appointment on compassionate grounds to the post of GDS in the present case within a period of three months from the date of receipt of this order.

Opportunity is taken at this juncture to hereby direct the registry to serve a copy of this judgment on the Union Secretary, Department of Posts as well as the Union Secretary, Department of Personnel & Training to issue appropriate clarifications as deemed fit by way of Office Memorandum w.r.t. clarification on the applicability of DOP&T circular on the issues of GDS within a period of three months from the date of receipt of this order. The Department of Posts may also specifically consider issue of appropriate clarification as deemed fit to set at rest issues w.r.t. equivalence of Maulvi etc. qualification given by the U.P. Madarasa Board or other equivalent Boards in the country of similar qualification as stated in the O.M. dated 23.02.2010 of the Ministry of Personnel, Public Grievances and Pension in a period of three months.

8. No order as to costs.

(Devendra Chaudhry)
Member (Administrative)

/JNS/