

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.831 of 2016

Orders reserved on : 13.02.2019

Orders pronounced on : 26.02.2019

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Prakash Chand Meena,
Aged about 37 yrs.,
GDS/BPM, Pulpehladpur Branch, Post Office,
S/o Shri Chhote Lal Meena,
R/o House o.D-321, Ground Floor,
Khasra No.350, Pulpehladpur,
New Delhi-110044.

....Applicant
(By Advocate : Shri Ajay Kumar Singh)

VERSUS

1. Union of India, through
The Director General of Postal Service,
Department of Posts (Recruitment Division)
Dak Bhawan, Sansad Marg,
New Delhi-01.
2. Chief Post Master General,
Delhi Circle,
Meghdoot Bhawan,
Delhi-01.
3. Senior Superintendent of Post Offices,
New Delhi South Division,
Nehru Place, Post Offices Building,
New Delhi-19.

.....Respondents
(By Advocate : Mrs. Anupama Bansal)

O R D E R

Ms. Nita Chowdhury, Member (A):

In the instant OA, the applicant is seeking the following
reliefs:-

- “(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order of cancellation of engagement of the applicant dated 14.12.2015 and consequently discharge order dated 16.12.2015 (orders under challenge) of the applicants with all the consequential benefits including re-instatement in service with arrears of back wages and with continuation of service with all the benefits.
- (ii) Any other relief which the Hon’ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation.”

2. Brief facts of this case are that a notification for recruitment to the post of Branch Postmaster (in short BPM), Pulpheladpur Branch Office under Badarpur Sub Office reserved for SC category was issued by the SSPOs, New Delhi South Division New Delhi vide letter dated 10.12.2013. The applicant also applied for the said post. The applicant was selected for the post and the name of Shri Mahesh Kumar was kept in select panel. On completion of pre appointment formalities, i.e., medical fitness, verification of educational qualification, caste certificate and police verification, the applicant was engaged as GDS BPM Pul Pheladpur BO w.e.f. 26.4.2014.

2.1 The recruitment of GDS BPM, Pul Pheladpur BO was reviewed by the competent authority and observed that the process for filling up the post of GDS BPM, Pul Pheladpur was initiated on 5.11.2013 and finalized on 26.4.2014, major irregularities were noticed in the case of recruitment of GDS BPM Pul Pheladpur BO wherein merit

has been ignored on the ground of non-providing of address in the application form for housing the said BO which was required to be provided only after selection. The stand taken by the recruiting authority is against Rule 3A of terms of engagement of GDS. Shri Deepak Dabi (57.33%) and Sh. Manoj Sah (51.83%) who had secure higher marks than the selected candidate Shri Prakash Chand Meena (47.82%) were ignored on the grounds that they did not furnish address of the accommodation to be provided for Branch Post Office in the application form. The merit chart clearly shows that Shri Deepak Dabi was willing to provide accommodation but he had not given the address of the said accommodation which he could have provided before engagement had he been considered by the recruiting authority and selected on the basis of merit. Similarly, Sh. Manoj Sah who had secured higher marks than the applicant was not considered as he was not willing to provide accommodation in the application form whereas no such condition exists as per Rule 3-A of GDS (Conduct & Engagement), Rules, 2011. As per Postal Directorate letter dated 17.9.2003, the candidate is required to provide space for BO, taking up residence in the BO village before engagement. In view of the above, the engagement of GDS BPM, Pul Prahalad Pur was found irregular.

2.2 Asstt. Director (Staff & Legal), O/o Chief Postmaster General, Delhi Circle, New Delhi-110001 vide

letter dated 10.12.2015 conveyed the directions to cancel the appointment of the applicant as GDS BPM Pul Pehladpur BO with immediate effect in view of alleged irregularities committed in the Recruitment of GDS BPM. Accordingly, as per the provision contained in Rule 8 of GDS (Conduct & Engagement) Rules, 2011, the engagement of the applicant as GDS BPM, Pul Pehladpur BO was cancelled with immediate effect vide letter dated 14.12.2015 and he was relieved on 16.12.2015 a/n. One month's time related continuity allowance plus dearness allowance as admissible was also remitted to the applicant through service money order No.A-6353 dated 22.01.2016 for Rs.10,205/- in lieu of notice of one month. Aggrieved by the aforesaid letters dated 14.12.2015 and 16.12.2015, the applicant has filed this OA seeking the reliefs as quoted above.

3. Counsel for the applicant submitted that the impugned orders are issued in violation of principles of natural justice as no notice was issued to the applicant before terminating his services and further contention of the applicant that the applicant is not able to maintain postal life insurance policy which was purchased by him as government employee and as such the case of the applicant may be considered with sympathy under compelling circumstances. Counsel for the applicant placed reliance of the decision of this Tribunal in OA No.2280/2016 decided on 9.10.2017.

Counsel for the applicant further contended that the termination of engagement of the applicant has been done at the instance of the superior authority, therefore, Rule 4 (3) of the Rules *ibid* is attracted and not the Rule 8 of the Rules *ibid* and therefore, the impugned termination order is liable to be quashed by this Tribunal.

4. On the other hand, learned counsel for the respondents submitted that in the engagement letter dated 22.4.2014 issued to the applicant, it has clearly been provided as under:-

“Sh. Prakash Chand Meena should clearly understand that this engagement as GDS BPM shall be in nature of a contract liable to be terminated by him or by the undersigned by notifying the order in writing and that his conduct and services shall be governed by the GDS (Conduct & Engagement) Rules, 2011 as amended from time to time.”

4.1 Counsel for the respondents further submitted that when the competent authority found irregularities in the selection committed by the recruiting authority, the competent authority by invoking the provisions of Rule 8 of GDS (Conduct & Engagement) Rules, 2011, cancelled the engagement of the applicant with immediate effect vide letter dated 14.12.2015 and accordingly, the applicant was relieved on 16.12.2015 and one month's time related continuity allowance plus dearness allowance, as admissible was also remitted to the applicant through service money order of Rs.10,205/- in lieu of notice of one month to the applicant.

Therefore, counsel for the respondents submitted that there is nothing illegal in the action of the respondents. Counsel for the respondents also placed reliance on Order of this Tribunal in OA 660/2016 (***Kalpana and others vs. Union of India***) in this Tribunal also considered the said judgment passed by this Tribunal in OA No.2280/2016 and held as under:-

11. After hearing the counsel of both the parties and perusing the records of the case it becomes clear that this matter is similar to that decided by the High Court of Judicature at Patna in CWJ case no.12832 of 2017 relied upon by the respondents in which they have distinguished between the decision of the Hon'ble Apex Court in the matter of **Union of India vs. Jaykumar Parida**, 1996 SCC (L&S) 320 and have held that “the present termination is not based on any form of foundation of misconduct against the petitioner. Since no stigma has been attached and there is no foundation of misconduct against the petitioner, the principle of natural justice has not been violated if the respondents have acted perfectly in accordance with the statutory law under the proviso to Rule 8 (2) of the Rules 2011.” In fact, the order issued by Department of Post dated 17.11.2015 placed at Annexure RR-5 to the counter clearly laws down that:

“5.In view of above, all the appointments of GDSBPM (i) Molarband GDSBO, (ii) Lal Kuan GDSBO & (iii) Jeevan Nagar GDSBO are irregular. I am therefore directed to ask you to cancel these appointments with immediate effect after following the given procedure as prescribed in Rule 8 of GDS (Conduct & Engagement) Rules, 2011. A compliance report may be submitted for the information of the competent authority.”

12. In the present case, we find no merit in the submissions made in the OA and hence the same is dismissed. However, it has not been clarified during arguments whether the respondents have paid the applicants the Basic Time Related Continuity Allowance plus Dearness Allowance, which they are entitled to while passing the order under Rule 8 of the Rules 2011. If the applicants have not been so paid, the

respondents shall make the required payment as per law under Rule 8 of Rules 2011. No order as to costs.”

5. After hearing learned counsel for the parties and after perusing the pleading on record, this Tribunal found that the applicant's engagement is governed by the provisions of GDS (Conduct & Engagement) Rules, 2011 as is evident from his engagement letter and Rule 8 of the said Rules provides that :

“8. Termination of Engagement

- (1) The engagement of a Sewak who has not already rendered more than three years' continuous service from the date of his engagement shall be liable to be terminated at any time by a notice in writing given either by the Sevak to the Recruiting Authority or by the Recruiting Authority to the Sevak;
- (2) The period of such notice shall be one month:

Provided that the service of any such Sevak may be terminated forthwith and on such termination, the Sevak shall be entitled to claim a sum equivalent to the amount of Basic Time Related Continuity Allowance plus Dearness Allowance as admissible for the period of the notice at the same rates at which he was drawing them immediately before the termination of his service, or, as the case may be, for the period by which such notice falls short of one month.

NOTE.-Where the intended effect of such termination has to be immediate, it should be mentioned that one month's Time Related Continuity Allowance plus Dearness Allowance as admissible is being remitted to the Sewak in lieu of notice of one month through money order.”

6. We had earlier an occasion to deal with the similar issue as involved in this case in OA No.660/2016 (***Kalpana and others vs. Union of India and others***) decided on 6.2.2018,

the relevant portion of the said judgment has already been quoted in para 4.1 above. As such this Court is of the considered view that the present OA is fully covered by the reasoning given in the said OA 660/2016 by this Tribunal. Accordingly, the present OA is dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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