

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

LIBRARY

No. O.A. 350/01168/2012
M.A. 350/00076/2019

Date of order: 12.6.2019

Present: Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Buddhadev Mondal,
Son of Sri Basudev Mondal,
Village & P.O. - Gurgram,
Police Station - Bhagwanpur,
District - Purba Medinipur,
Pin - 721 633.

.... Applicant

- V E R S U S -

1. Union of India,
Service through the Secretary,
Ministry of Communication,
Department of Posts,
Dak Bhavan,
New Delhi - 1.
2. The Chief Post Master General,
Yogayog Bhavan,
C.R. Avenue,
Kolkata - 700 012.
3. The Superintendent of Post Offices,
Tamluk Division,
P.O. - Tamluk,
District - Purba Medinipur,
Pin Code - 721 631.
4. The Sub-Divisional Inspector,
Math Chandipur Sub-Division,
P.O. - Math Chandipur,
District - Purba Medinipur,
Pin Code - 721 650.

5. Mr. Swapan Adhikary,
Son of Late Santosh Adhikary,
Ex-Sub-Div. Inspector of Post
Offices,
Math Chandipur Sub-Division,
Residing at Raja Bazar,
P.O. - Midnapore,
District - Paschim Medinipur,
Pin Code - 721101.

.. Respondents

For the Applicant : Mr. B. Bhushan, Counsel.

For the Respondents : Ms. M. Bhattacharya, Counsel
Mr. A. Mondal, Counsel

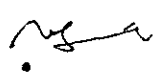
ORDER (Oral)

Per Mr. Justice L. Narasimha Reddy, Chairman:

The Superintendent of Post Offices, Tamluk Division, the third respondent herein issued a notification dated 10.9.2009 inviting applications for selection of candidates for appointment to the post of Gramin Dak Sevak Mail Deliverer (GDSMD) and Gramin Dak Sevak Mail Carrier. 11 vacancies were notified and reservation was also provided and pattern thereof was also indicated. The applicant herein was appointed as GDSMD in respect of Debipur Branch Post Office under Mathchandipur Sub-Division through order dated 22.1.2010 against the vacancy reservation in favour of Scheduled Castes candidates. Appointments in respect of other vacancies were also made.

2. O.A. Nos. 2001-2006 of 2010 were filed before this Tribunal challenging the appointments made against six vacancies including the one in respect of Debipur Branch Post Office. One of the contentions raised therein was that the meritorious candidates were not considered and those below in merit list were preferred. The allegations were also made against one, Mr. Swapan Kr. Adhikari, who was Inspector of Posts. After examining the matter in detail, the Tribunal passed a common order dated 23.3.2012 observing that irregularities have taken place in selection/appointment of candidates in respect of four places including the one at Debipur. Direction was issued to the respondents therein to take necessary steps under Rule 4(3) of the Gramin Dak Sevak (Conduct & Engagement) Rules, 2011. In compliance with the same, the matter was examined and the concerned authority has taken a decision to cancel the appointment in respect of the four places. The consequential order dated 7.12.2012 was issued under Rule 8(2) of Gramin Dak Sevak (Conduct and Engagement) Rules, 2011 and the employment of the applicant was terminated by offering him the compensation equivalent to salary of one month. This O.A. is filed challenging the order of termination.

3. The applicant contends that the allegations made vis-à-vis his appointment are totally incorrect and the entire adjudication was undertaken in his absence. It is also stated that the respondents did not issue any notice to him before the impugned order was passed. On merits, the applicant




contends that the two candidates, who were placed above him were already accommodated and in that view of the matter, there is no necessity to terminate his appointment at all.

4. The respondents filed a detailed counter-affidavit running to 28 pages, and the annexures. The various steps that have taken place in the process of selection of candidates and the findings about the allegations as to irregularities that came out in the enquiry conducted in compliance with the directions issued by this Tribunal, are mentioned in detail. It is stated that the applicant was found to be far below in the merit list and, accordingly, his appointment was withdrawn by invoking Rule 8(2) in such a way that no stigma is attached to him. It is stated that no illegality has taken in the entire process and the applicant was not put to any injustice or hardship.

5. We heard Shri B. Bhushan, learned counsel for the applicant and Ms. M. Bhattacharya leading Mr. A. Mondal, learned counsel for the respondents.

6. The process of selection of candidates for the post of GDSMD against 11 vacancies started way back in the year 2009. However, it was shrouded in one controversy or the other and as many as six O.As. were filed before this Tribunal. On examination of the entire record it was found that the selection in respect of four posts which included the one held by the applicant, is improper. The selections, as such, were not set aside but direction was issued to the respondents to undertake a detailed enquiry under Rule 4(3)




of Gramin Dak Sevak (Conduct & Engagement) Rules, 2011. The same was complied with and it was decided to cancel the appointments in respect of these four vacancies. In the context of issuing consequential orders, respondents have taken recourse to Rule 8(2) of GDS (Conduct & Engagement) Rules, 2011, which reads as under:-

"8.(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."

An order dated 7.12.2012 was passed vis-à-vis the applicant.

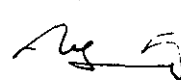
7. If one takes into account, the orders of the Tribunal in O.A. 2001-2006 of 2010 batch and the extensive exercise undertaken by the respondents, it emerges that there were two candidates above the applicant for the post of Gramin Dak Sevak Mail Deliverer meant for Debipur Branch Office, namely, Dibyendu Koyal with 578 marks and Kakali Hait with 491 marks. The applicant secured 441 marks. Kakali Hait did not lay her claim because she was appointed as GDSMD at Khagda Birgram B.O. Incidentally, her appointment was challenged in O.A. No. 2005 of 2010. Then remains Dibyendu Koyal. He filed O.A. No. 2003 of 2010 and on finding that he is more meritorious, this Tribunal found fault with the



selection of the applicant. In the resultant exercise, the appointment of the applicant was cancelled.

8. The applicant filed rejoinder and enclosed a copy of the order dated 3.5.2010 through which Mr. Dibyendu Koyal was appointed as GDSMC of Bhupatinagar. He further stated that Kakali Hait was also accommodated and she is no longer a contender for the post in respect of Debipur. If that is so, the applicant can approach the concerned authority and if it emerges that the two candidates above the applicant have been accommodated and posted in other places, the applicant can be considered for being appointed for the post at Debipur. Since he has participated in the prolonged selection process and was at one stage appointed to the post, there is no reason to believe that respondents would not consider his case.

9. We, therefore, dispose of the O.A. leaving it open to the applicant to make a representation narrating the various events that have taken place before and after filing of the O.A. vis-à-vis the candidates who were considered for the post of GDSMD for Debipur. If on a consideration of the representation it emerges that the two candidates above the applicant, by name, Dibyendu Koyal and Kakali Hait have been appointed against other vacancies and/or are working, the case of the applicant for appointment afresh, against the vacancy of Debipur or other place, notified earlier, if available, shall be considered, within two months from the date of service of the representation.



10. The M.A. No. 350/00076/2019 is filed with a prayer to permit the applicant to amend the prayer portion in the O.A.

In view of the nature of disposal of O.A., there is no necessity to order amendment of the prayer.

11. The application is accordingly closed.

There shall be no order as to costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Justice L. Narasimha Reddy)
Chairman

SP