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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH, MUMBAI**

**ORIGINAL APPLICATION No.201/2013**  
**This the 17<sup>th</sup> day of June, 2019**

**CORAM:- R. VIJAYKUMAR, MEMBER (A).**  
**R.N. SINGH, MEMBER (J).**

Mangesh Ganpat Patil  
Aged 38 years,  
Working as Gramin Dak Sevak,  
At Post Office Korlai (Revdanda)  
Dist Raigad-402202.  
Residing at Post Korlai,  
Taluka Marud,  
Dist Raigad-402202.

... **Applicant.**  
(By Advocate Ms. Mehndiratta Priyanka)

**VERSUS.**

1. The Union of India,  
Through the Post Master General,  
Mumbai Region,  
Old GPO Building, 2<sup>nd</sup> floor,  
W.H. Road,  
GPO Fort,  
Mumbai-400001.
2. The Superintendent of Post Offices,  
Department of Posts,  
Raigad Division, Alibaug-402201.

... **Respondents.**  
(By Advocate Shri V. B. Joshi)

**O R D E R (O R A L)**  
**Per: R.N. Singh, Member (Judicial)**

1. When the case is called out, Ms. Priyanka Mehndiratta, learned counsel appeared for the

applicant.

2. Shri V. B. Joshi, learned counsel appeared for the respondents.

3. The applicant has filed this O.A. on 18.04.2013 under Section 19 of Administrative Tribunals Act, 1985 seeking the following reliefs:-

"(a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same, restrain the Respondents from terminating the services of the Applicant as Gramin Dak Sevak Branch Post Master Korlai.

(b) This Hon'ble Tribunal may further be pleased to hold and declare that the Applicant is validly appointed as Gramin Dak Sevak Branch Post Master Korlai.

(c) Cost of the application be provided for.

(d) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

4. The applicant argues that the applicant was appointed as Gramin Dak Sevak in response to the advertisement issued by the respondents on 29.04.2011. Subsequently the respondents vide

reference no. B2/Aptt/Korlai (Revdanda) dated 28.03.2013 (Annexure A-1) issued a show cause notice by referring to Rule 8(1)(2) of the Service Rule for Postal Gramin Dak Sevak, Conduct and Engagement Rules, 2011. This was received by the applicant on 2<sup>nd</sup> April giving him notice that his services shall stand terminated at the expiry of one month from the date of receipt of such notice. Following this the applicant made representation dated 16.04.2013 (Annexure A-5) and then received orders dated 02.05.2013 of respondents, marked as (Annexure A-1) relieving him from service although it reads as termination order.

5. The learned counsel for the applicant contends that there was nothing at fault with his application or his interaction with the respondents prior to appointment and therefore, the application of Rule 8(1) (2) in his case were irrelevant. If any error had been caused it cannot be attributed to him and as the same are entirely attributable to the respondents. The learned counsel for the applicant further argues that impugned letter dated 28.03.2012 clearly indicates predetermination of the decision of the Respondents and the same being show cause notice

is nothing but sham. Thus there is flagrant violation of principle of natural justice, non-application of mind, violation of Rule 8(1)(2) of the Postal Gramin Dak Sevak, Conduct and Engagement Rule, 2011. The learned counsel for the applicant further relies upon the order/judgment dated 05.02.2019 of this Tribunal in OA No.814/2016, titled Sh. Ramrao Namdeo Pitlewad Vs. Union of India and 02 Ors. Paras 6 & 7 thereof reads as under:

"6. We have considered the pleadings available on record and rival contentions. We are of the considered view that at the best the circular dated 25.06.2010 referred herein above can be construed as a guidelines issued under the approval of the Secretary Department of Posts but in no manner the same can be construed as a statutory provisions held under Article 309 of the Constitution. It is only in nature of guidelines, violation thereof may invite action against the authority who has violated the guidelines issued by the senior authority i.e. Secretary, Department of Post but the same cannot make the appointment concluded in response to an advertisement published by the competent authority on the subject void ab initio. In these circumstances, it was incumbent upon the competent authority to accord pre-decisional hearing to the applicant and in absence thereof the impugned orders are in violation of the principle of natural justice and therefore, the same is liable to be set aside and quashed. We are of the further view that there has not been such a situation where proviso Rule 8 of the GDS Conduct and Engagement Rules was required to be

brought in service. It is admitted case of the respondents that the applicant has applied in pursuance to the advertisement issued by the competent authority and he has been found eligible and suitable for the post and thereafter he has worked to the satisfaction of the authorities concerned for more than one and half year. In the circumstances, the respondents invoking the proviso, Rule 8 is also misplaced. It is also admitted case of the respondents that the relevant rule does not give power of review of administrative decision to the Respondent No.3 i.e. Sub-Divisional Inspector Post and thus once he after due selection process he has issued an offer of appointment, he cannot recall the offer or cancel the appointment in absence of any express provisions of power of review to him. He cannot review his own order and thus he had gone beyond his jurisdiction. We may not ignore this fact also that the applicant has been admittedly found suitable and he has been discharging the duties to the satisfaction of officers and now at this stage when he has attained 38 years of age, he may not find any suitable employment.

7. In these facts and circumstances, we find sufficient merits in the claim of the applicant and accordingly impugned orders dated 24.10.2016 (Annexure A-1), 01.08.2016, 04.08.2016, 05.08.2016 (Annexure A-3) are hereby quashed and set aside. The respondents are directed to reinstate the applicant on the post of GDS, MC, Nandappa Branch Post Office with Chandur Sub Post Office within one month of receipt of certified copy of this order. However, in the facts and circumstances, though the applicant shall be eligible to count his service in continuity for the purpose of seniority, fixation of pay, etc and other retiral benefits, if any

admissible, applicant shall not be entitled for any back wages."

6. The learned counsel for the respondents states in reply that there were complaints of irregularities and after Vigilance Inquiry order of termination were directed to be issued and they claimed that such orders were delivered to the applicant on 02.05.2013. The learned counsel for the respondents supplements that no action has been taken against the respondents' employees for irregularities in the selection process.

7. The learned counsel for the applicant and respondents have been heard and pleadings on record have been carefully studied with reference to law and instructions.

8. On the face of it, it is evident that the respondents have issued both show cause notice and termination orders fixing one month's notice and termination date in their orders issued on 28.03.2013 delivered to the applicant on 02.04.2013. In the show cause notice we find nothing answerable by the applicant. Therefore, these orders are basically contradictory and violative of basic principles of natural justice. The applicant has not been allowed

to participate in the Vigilance Inquiry and no action has been taken against any other staff involved in the process. There is no finding of any misrepresentation or anything done illegally by the applicant to secure the appointment.

**9.** With regard to the reference to rules 8(1) and (2) which have been taken as basis for issue of show cause notice, orders etc. this bench has previously passed order/judgment dated 09.10.2009 in OA No.524/2005 titled Sh. Ashish M. Anjankar Vs. Union of India and Ors. and it has been affirmed by the Hon'ble High court of Bombay vide order/judgment dated 17.09.2010 in WP No.1577/2010, etc.

**10.** In these circumstances, it is quite apparent that the basis for the show cause notice itself is misconceived and should never have been proposed in the manner have been done. Further, the issue of show cause notice and passage of orders on the same date are clearly in violation of the principles of natural justice.

**11.** In these circumstances, the impugned orders of the respondents are quashed and the OA is allowed with following directions:

(I) the applicant shall be reinstated in service with immediate effect with consequential benefits vis-a-vis continuity in service, seniority, etc. but the applicant shall not be entitled for arrears of pay.

12. There shall be no order as to costs.

(R. N. Singh)  
Member (J)

(R. Vijaykumar)  
Member (A)

V.

SD  
03/7/18