

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00246/16

Reserved on: 25.09.2019
Date of Order: 26.09.2019

C O R A M
HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Chandan Kumar, S/o Sri Kashi Nath Jha, resident of Village & P.O.- Kishunpur
Madhuban, Via- Turki, District- Muzaffarpur.

.... Applicant.

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the Secretary Cum DG, Department of Posts, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Postmaster General, Northern Region, Muzaffarpur.
4. The Director of Postal Services, Northern Region, Muzaffarpur.
5. The Superintendent of Post Offices, Darbhanga Division, Darbhanga.
6. The Inspector Posts, North Sub Division, Darbhanga.

.... Respondents.

By Advocate: - Mrs. P.R. Laxmi

O R D E R

Per Dinesh Sharma, A.M:- The case of the applicant is that he was appointed to the post of GDSMD at Dhoi Branch Post office in account with Laxmi Sagar Sub Post Office in Darbhanga Postal Division. However, he was terminated under rule 8(2) of the Department of Post Gramin Dak Sevan (Conduct and Engagement) Rules, 2011 by an order dated 28.05.2014. The applicant challenged this order before this Tribunal in OA/050/00397/2014 which, along with another OA (No. 756/2014 filed by Arvind Kumar Lal Das, the person who alleged to be more qualified) were dismissed by this Tribunal vide order dated 19.11.2015. The Tribunal

further held that “the respondents will be free to fill up this post as per law from the applications already solicited. If they find that it is impossible to make a proper selection on the basis of earlier solicitation of application, they would also be free to initiate the recruitment process de-novo”. The applicant has further alleged that Shri Arvind Kumar Lal Das had got another appointment on a superior post of GDSBPM at G. Basalia Branch Post Office in Darbhanga District itself. Since this person had got appointed as GDSBPM even before the order of this Tribunal, there was no need to disturb the applicant from his post. Hence, the fresh termination order issued by Memo dated 24.02.2016 (after the decision of this Tribunal) is wrong. The applicant has argued that such termination is erroneous because it has not been explained why it was impossible to make a proper selection on the basis of earlier solicitation of application as directed by this Tribunal by its order dated 19.11.2015.

2. The respondents have denied the claim of applicant in their written statement. They have stated that this Tribunal had already dismissed the claim of the applicant against his original termination order and the stay order issued in this OA against his termination was vacated. The Tribunal had also given freedom to the respondents to fill up the posts as per law from the applications already solicited. Following the direction of this Tribunal in the said OA the order of termination dated 24.02.2016 was issued. It is also mentioned in the written statement that it has been clarified by their Department in their letter dated 18.10.2013 that the select panel will be valid for one year from the date of finalization and after that

it would lose its validity. Since in this case the applicant was engaged to the post on 23.06.2012 the select panel lost its validity on 22.06.2013 and as such it was impossible to make a proper selection on the basis of earlier solicitation of applications.

3. The applicant has filed a rejoinder in which he has alleged that “the principle of life of Select List is not at all applicable in the matters concerning Court case. There are thousands of examples that person from the same earlier selection gets appointed after years as the cases travelled in different Courts.” He has cited the order of this Tribunal in OA/050/00673/2015 in support of his case.

4. We have gone through the pleadings and heard the learned counsels of both the parties. The learned counsel for the applicant argued that it was not impossible for the respondents to select and appoint the applicant after the order of this Tribunal and therefore his termination was unwarranted. He also informed that the said post is still lying vacant. The learned counsel for the respondents argued that the termination of the applicant was after this Tribunal had found his earlier termination dated 28.05.2014 correct in law. The suggestions made in this Tribunal’s order about freedom to fill these posts from the applications already received and also to initiate de-novo recruitment process indicates that this Tribunal had left this decision to be taken by the Department in accordance with law. There is no mandate in this Tribunal’s order to initiate de-novo recruitment process only if it was totally impossible to make a proper selection on the basis of earlier solicitation. To a query made by the Bench about why the

post is still kept vacant, the learned counsel for the respondents stated that it was because of the pendency of this OA.

5. We find that the issue regarding termination of the applicant has already been agitated before this Tribunal in OA/050/00397/2014 and this Tribunal did not find any illegality in the order of termination. The further freedom given in this order to fill up this post as per law from applications already solicited and in case of impossibility of proper selection out of these, the freedom to initiate de-novo process is not by way of a direction to fill up this post in any specified order. The use of the word “free” itself makes it clear that this is not a specific direction to fill the post in any particular way. Therefore, we do not think that the issue of termination of the applicant can be agitated before this Tribunal again. It may be true that in a number of cases the Department might have given appointments years after the date of selection panel, following directions of a court. However, this is not a sufficient ground for us to revise our earlier decision in this matter and to state anything further than what is stated in our decision dated 19.11.2015. Since there is nothing contrary to law in the termination order, the OA is, accordingly, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member