

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
AT HYDERABAD**

OA/020/00912/2015

Date of CAV: 07.03.2022

Date of Pronouncement: 14.03.2022



Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr.B.V.Sudhakar, Admn. Member

Between:

Smt. Sunkara Sarawathi,
W/o. B. Venkata Rao,
Aged 28 years, Occ: Ex.GDS MD/MC,
Duvvada BO, D. No. 48-1-39, Flat No. 35(B),
Kalyan Vihar, Sri Nagar, Akkayapalem PO,
Visakhapatnam – 530 016,
Visakhapatnam Dist (AP).

...Applicant

(By Advocate: Mr. B. Gurudas)

And

1. Union of India, Rep. by
The Chief Post Master General,
A.P. Circle, Abids, Hyderabad – 500 001 (TS).
2. The Post Master General, Visakhapatnam Region,
Visakhapatnam - 530017 (AP).
3. The Sr. Superintendent of Post Offices,
Visakhapatnam Division,
Visakhapatnam - 530001 (AP).
4. The Asst. Supdt. of Posts,
VM South Sub-Division,
Visakhapatnam – 530 017.

....Respondents

(By Advocate : Mrs. B. Gayatri Varma, Sr. PC for CG)

ORAL ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)

2. The OA is filed challenging the termination of the services of the applicant on 11.6.2012.



3. Brief facts are that the applicant has been appointed as Grameen Dak Sewak (*for short GDS*) against notification dated 19.2.2011 with effect from 11.7.2011. After 11 months, her services were terminated on 11.6.2012 for the reason that the 10th standard certificate submitted by her is not in the records of the Board of Higher Secondary Education, New Delhi. Aggrieved the OA is filed.

4. The contentions of the applicant are that no notice was issued before terminating her services. Applicant was selected based on the certificate issued by the National Institute of Open Schooling (*for short NIOS*) which was substituted by the respondents and the substituted one was sent for verification. The original copy of NIOS is in her possession. As per Rule 8 of Grameen Dak Sewak (Conduct and Engagement) Rules (*for short GDS (C&E) Rules*) notice has to be given and as per Rule 3 of Postal Manual Vol. IV antecedents are to be verified before issue of appointment order. The appointment was made after verifying the original certificate. A similarly situated candidate Smt. Mangamma got appointed on a similar basis. R-4 has called the applicant over phone in July 2011 to come along with certain amounts to be deposited in the Post Office Savings Accounts. Applicant complied with the same.

5. Respondents state that the applicant was appointed considering the fact that she got 455 marks in the 10th standard school certificate issued by the Board of Higher Secondary Education, New Delhi. However, when the same was sent for verification to the said Board, it was revealed that the certificate does not exist and hence her services were terminated on 11.6.2012. The applicant has not submitted the NIOS certificate wherein she got 357 marks and based on the same, she would not have been selected on merit. Besides, there is variation in regard to the date of the birth recorded in the certificates and the application form submitted by the applicant. In respect of Smt. Mangamma, disciplinary action was initiated for committing a similar folly. Complaints made by the applicant are baseless.



Applicant filed a rejoinder claiming that DG order dated 19.4.1979 has not been complied wherein it was specified to conduct a regular inquiry for any irregularity noticed against an employee. Applicant alleges that R-4 has collected Rs.1,00,000 from the applicant in the presence of the eye witness and that he has misled in filing the application form. This has not been refuted. There was delay in issuing the appointment order. Disciplinary action has to be initiated as was done in the case of Smt. Mangamma. Other contentions made are repetitive.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about the termination of the services of the applicant. From the facts, it is evident that the applicant was appointed as



GDS on 11.7.2011 based on the 10th class certificate issued by the Board of Secondary Education, New Delhi wherein it is seen that she has secured 455 marks. On verification, it was found that the certificate submitted was fake. Hence, her services were terminated on 11.6.2012. The applicant contends that she has submitted the NIOS certificate and that the same has been substituted by the respondents. However, in the NIOS certificate, the marks scored were 357 and hence, by submission of the said certificate, she would not have been selected on merit. The applicant has admitted that she has submitted the certificate issued by the Board of Higher Secondary Education, New Delhi in her statement on 4.2.2014. The date of birth of the applicant recorded in the application form/ fake school certificate is 15.8.1996 and in NIOS certificate it is 5.8.1996 as claimed by the respondents and not denied by the applicant in the rejoinder. This is an additional factor, which strengthens the fact of submission of a fake certificate. Therefore, considering the facts of the case, the contention of the applicant that the respondents have substituted the NIOS certificate with some other certificate and have sent it for verification does not carry much weight. Against Smt.Mangamma, who was reported to have been appointed on a similar basis, respondents have initiated disciplinary proceedings against her, even as contended by the respondents. Applicant seeks similar treatment and action under disciplinary rules to be initiated against her, which is a fair submission.

II. In the said context, we observe that as per Rule 8 of the GDS (C&E) Rules, notice has to be issued before terminating the services of the

GDS employees, who have rendered less than 3 years of service. Rule 8 of the GDS (C&E) Rules, is extracted hereunder, for reference.

“8. Termination of Engagement

(1) The engagement of a Sevak 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 Sevak in lieu of notice of one month through money order.”



Respondents claim that the reasons for termination were given in the termination order (Annexure R-6) which is incorrect. The respondents have to follow the statutory Rule 8 to terminate her services by issue of notice. Rules cannot be violated by the respondents as per law.

III. Coming to other contentions, in regard to the collection of an amount of Rs.1,00,000 by R-4 in the presence of eye witness, it is for the respondents to take necessary action as deemed fit in the matter. Other submissions made by both the parties have been perused and since they are not relevant no comments are offered.

IV. Therefore, in view of the above, we set aside the termination order dated 11.6.2012 and direct the respondents to initiate action as per Rule 8 of the GDS (C&E) Rules and thereafter, take a final decision in the

matter. Till the finalization of the disciplinary action, as directed, the applicant shall be allowed to discharge duties as GDS in the respondents' organization. We leave it open to the respondents to treat the period between the date of termination and reinstatement as per rules and law.

Time period allowed to implement the judgment is 3 months from the date of receipt of this order.



V. With the above direction, the OA is disposed with no order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/