

(2017) 02 DEL CK 0312

In the Delhi High Court

Case No : 631 of 2003

VIJAY SINGH

APPELLANT

Vs

UOI & ORS

RESPONDENT

Date of Decision : 14-02-2017

Acts Referred:

Citation : (2017) 02 DEL CK 0312

Hon'ble Judges : G.S.Sistani, Vinod Goel

Bench : DIVISION BENCH

Advocate : Rajender Kumar, Manish Mohan, Shivam Chanana, Priyansha Sinha, Shivangi Sinha, Manisha Saroha

Judgement

1. Challenge in this writ petition is to the order dated 30.10.2002 passed by the Central Administrative Tribunal (in short "The Tribunal"). Rule DB was issued in this matter on 04.11.2003. The respondents were directed to maintain status-quo with regard to the present engagement of the petitioner.

2. The necessary facts which are required to be noticed for disposal of this writ petition are that the petitioner was appointed as Extra Departmental (now called Gramin Dak Sewak) Branch Postmaster of Siraspur in Delhi North Postal Division w.e.f. 01.10.1984. The petitioner approached the Tribunal seeking a direction, inter-alia, to set-aside Memo dated 08.10.2002 and restrain the respondents from making fresh appointment. Petitioner made the following prayers:- "1. To set-aside the impugned memo dated 8-10-02 (Ann. A-1) and restrain the respondents from making fresh selection for the post occupied by the applicant;

2. To direct the respondents to consider the applicant for promotion to Group ? Defendant? & Postmen cadres on the basis of his seniority in accordance with the respective recruitment rules as per his seniority shown in the seniority list issued with endst. Dated 5-1-99;

3. To grant all consequential benefits;

4. To grant such other or further relief as this Hon"ble Tribunal deem fit in the interest of justice; and

5. To award costs of this application."

3. It may be noticed that by Memorandum No.A-2/152 dated 14.11.1984, the petitioner was appointed as EDBPM Siraspur EDBO Delhi, on temporary and adhoc basis w.e.f. 01.10.1984. In this order of 14.11.1984, it was made clear that the appointment was adhoc in nature and did not confer any right on the petitioner for regular absorption.

4. The petitioner failed to produce even a single document before the Tribunal to show that his services had been regularized. Thus, it was held that the petitioner could not claim seniority as per the Seniority List of regular employees. It has also been held by the Tribunal that the challenge to the advertisement/Memorandum inviting applications for the post of Gramin Dak Sewak Branch Postmaster is misplaced. However, leave was granted to the petitioner to apply for the same.

5. Today, Mr.Mohan, learned counsel for the respondents has handed over in Court a printout of an e-mail dated 13.02.2017 sent to him by the Asstt. Director (Staff & Legal), Delhi Circle, New Delhi-110001, which reads as under:- "It is informed that in view of the approval conveyed by the competent authority, Postal Directorate (Respondent No.1 in WP) vide letter No.19-28/2016-GDS dated 07.02.2017, CPMG, Delhi Circle has taken a decision for regularisation of the petitioner on GDS-BPM post but not before the date of approval i.e. 07.02.2017. Since the CPMG, Delhi Circle doesn't have any discretionary powers for considering the petitioner for regular MTS post, hence the case was referred to Postal Directorate and in terms of the approval given by the competent authority vide letter dated 07.02.2017, the matter for regularisation on MTS post is under examination in Delhi Circle but the same cannot be considered prior to the date of approval i.e. 07.02.2017. Therefore the question for arrear/back wages of pay and allowance does not arise. You are therefore requested to kindly apprise the status to the Hon"ble Court on the next date of hearing i.e. 14.02.2017."

6. Learned counsel for the petitioner submits that in the light of the e-mail above, the petitioner would be satisfied if the decision of 13.02.2017 as conveyed is implemented. Resultantly, the writ petition is disposed of. The petitioner, as agreed to by the respondents, shall be regularized on the post in question w.e.f. 07.02.2017.

7. The writ petition is accordingly disposed of.