

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**COCP 1900/2015 (O&M)
Date of decision:06.07.2018**

Raman Kumar

.....Petitioner

v.

Makhan Singh

.....Respondent

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- None for the petitioner.

Mr.Namit Kumar,Advocate for applicant/respondent.

Jaswant Singh,J,(Oral).

In compliance of the directions dated 5.3.2018 Mr.Makhan Singh, Senior Superintendent Post Offices, Amritsar Division, Amritsar is present in Court.

Further, in compliance of the directions dated 22.1.2018, an additional affidavit dated 5.7.2018 of Sh.Makhan Singh, by way of CM 13041-CII/2018 has been sought to be placed on record.

CM allowed. Additional affidavit dated 5.7.2018 is taken on record.

Petitioner was initially recruited as Gramin Dak Sewak(GDS) Mail Deliverer at Branch Office, Talwandi on 2.5.1988. Post Master Kapurthala, Phagwara Division on 25.10.2004 circulated a letter seeking application from willing/eligible Gramin Dak Sewak(GDS) Mail Deliverer working in the Division for engaging them as Jeep Driver on purely

temporary basis. Learned counsel for the respondent submits that no recruitment was effected pursuant to the said letter dated 25.10.2004. However, on the voluntary retirement of Puran Singh, Driver the petitioner was straightway engaged as an officiating Jeep Driver w.e.f. 28.2.2006/1.3.2006 by the Superintendent Post Office, Kapurthala Division. The said engagement was *de hors* selection process envisaged in the recruitment rules and was of purely temporary nature. He continued to work as such till the passing of order dated 24.2.2014 relieving the petitioner from the charge of officiating Jeep Driver since the work in his substantive post as Gramin Dak Sewak(GDS) Mail Deliverer was suffering at his place of posting.

Petitioner challenged the said relieving by filing O.A.No.204/2014 before Central Administrative Tribunal, Chandigarh Bench. The learned Central Administrative Tribunal, Chandigarh bench vide order dated 7.3.2014 stayed the operation of the relieving order resulting into the petitioner being permitted to continue as Jeep Driver. The O.A.No.204/2014 was dismissed vide order dated 30.1.2015 and consequently the petitioner was relieved w.e.f. 13.2.2015.

Petitioner filed CWP No.2887/2015 and a learned Division Bench of this Court while issuing notice of motion for 30.4.2015 vide order dated 20.2.2015 passed the following interim directions:-

“If the petitioner is still working as Jeep Driver, he shall be allowed to continue on that post till further orders.”

The aforesaid writ petition is stated to be pending and now listed before a Division Bench on 21.8.2018.

Present contempt has been filed by the petitioner with the allegations that the respondents have failed to comply with the aforesaid interim direction dated 20.2.2015 inasmuch as the petitioner, although still working on the post of Jeep Driver on 20.2.2015 was not permitted to continue by falsely showing him to be relieved on 13.2.2015.

Upon notice, stand of the respondent is that the petitioner stood factually relieved on 13.2.2015 and thus, there is no violation of the aforesaid interim direction.

Heard learned counsel for the respondent and perused the paper book.

After scrutinizing the arguments and record; including additional affidavit dated 5.7.2018, it is evident that there is no reason for this Court to hold that the petitioner had continued to work as a Jeep Driver till 20.2.2015. The respondent by referring to Annexures R-2 to R-7 annexed with the reply dated 28.10.2015 have been able to show that the order dated 13.2.2015 directing the petitioner to join as Gramin Dak Sewak (GDS) Mail Deliverer at Talwandi Salem was despatched vide registered post on the given address of the petitioner. There are entries of the petitioner having not met on 14th, 16th, 18th and 19th February, 2015. In the vernacular of Annexure R-2, it is recorded that the petitioner refused to accept the registered letter on 20.2.2015. Thus, the service upon petitioner of the notice was complete. The possession of the Jeep with keys was already with the Department, and no other formality was required to be performed.

In para 2 of the additional affidavit dated 5.7.2018 of Makhan

Singh the following has been submitted:-

“That it is respectfully submitted that in pursuance to the dismissal of the OA filed by the petitioner in the Central Administrative Tribunal, Chandigarh Bench, Chandigarh vide order dated 30.1.2015, the petitioner was relieved from the post of Jeep Driver vide order dated 13.2.2015 (Annexure R/1 attached with the written statement). He was paid the wages as Jeep Driver till 13th February,2015 as is clear from the letter dated 5.3.2015 (Annexure R/7 attached with the written statement) whereby the SPO requested the Postmaster, Kapurthala HO to draw his pay and allowances till 13.02.2015. Consequently, he was paid the wages till 13.2.2015 vide receipt dated 5.3.2015/21.3.2015 and a copy of the receipt dated 5.3.2015/21.3.2015 is annexed as Annexure R/8. Thereafter, the services of Shri Ranjit Kasab, the then GDS Bholath were utilized as outsider Driver as and when required. At present, the service of Shri Ranjit Singh as outsider Driver are being utilized.”

From the above, it is evident that petitioner has accepted his wages till 13.2.2015 as per receipt dated 21.3.2015 and also the Jeep was driven by availing the services of one Ranjit Kasab and Ranjit Singh as and when needed till date. Thus, there is no willful disobedience of the interim directions dated 20.2.2015.

Dismissed.

06.07.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No