

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated Tuesday the 2nd day of June Two Thousand And Twenty

PRESENT:

THE HON'BLE MR. P. MADHAVAN, MEMBER(J)

THE HON'BLE MR. T. JACOB, MEMBER(A)

O.A.310/661/2015

C. Rajendran,
S/o. Chinnaian,
Aged 45 years,
Lastly employed as
GDS Mail Packer,
DMMS, Trichy-1,
Residing at:
NO.2/33, Gorimedu,
Dindugal Road,
Trichirapalli- 620 001.

.....Applicant

(By Advocate: M/s. Gnanasekar)

Vs.

1. Union of India Rep. by
The Post Master General,
Central Region, Tamil Nadu Circle,
Trichirappalli-620 001;
 2. Senior Superintendent of Post Offices,
Tiruchirappalli Division,
Trichirappalli-620 001;
 3. The Assistant Superintendent of Post Officer,
Trichirappalli East Sub Division,
Trichirapalli-620 001.
-Respondents.

(By Advocate: Ms. S. Padmanabhan)

ORDER

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

The OA is filed seeking the following relief:-

"Set aside the order in Memo: A2-2-6/OA501/2012 dated 08.04.2015 passed by the 2nd Respondent and reinstate the applicant in service by directing the respondents 2 & 3 to regularize the applicant appointed as GDS Mail Packer w.e.f. 19.03.2008 with all consequential monetary and other service benefits."

2. The brief facts of this case is as follows:-

The applicant was engaged as a Part Time Contingent Labour in DMMS, Tiruchy by an order dated 15.12.1997 by respondent No.2. Thereafter, he was working as Part Time Contingent Chowkidar continuously. The applicant has completed 17 years of service. The 2nd respondent had issued a notice of termination on 6.1.2005 to the applicant. It was issued stating that the appointment was made in contravention of DG's instruction. The applicant filed OA 42/2005 before this Tribunal. The Tribunal directed him to give a representation against the notice of termination dated 06.01.2005 and he gave a representation on 23.07.2005. The respondent did not consider the representation for about one year and thereafter passed

order on 30.05.2006 terminating the applicant. Then applicant filed OA 437/2006 and the Tribunal allowed the said OA on 20.05.2006. But the Tribunal gave liberty to the respondents to pass orders after the final decision in WP 33152/2005 by the Hon'ble High Court (Challenging order in OA 253/2005). The respondents appointed the applicant as GDS Mail Packer of DMMS by order dated 03.04.2008. The applicant thereafter sought for regularization by filing a representation on 16.10.2010 and then on 3.1.2012. He is continuously working as G.D.S. Mail Packer w.e.f. 19.03.2008. Now about seven years is over. The respondents did not regularize his appointment. The applicant hence filed OA 501/2012 before this Tribunal seeking regularization with effect from 19.03.2008. The above OA was disposed of by Tribunal with the following direction:-

"The respondents may consider as a special case finding some opening for the applicant whereby he could be employed on a regular basis with necessary relaxation if required."

The applicant again gave a representation on 21.08.2014 and 23.09.2014 to the respondents to appoint the applicant. The respondent did not appoint him as per order of the Tribunal in OA 501/2012 and he filed a Contempt Application No. 310/26/2015 for willful disobedience. Notice was ordered and

the respondent had rejected the representation as per order dated 08.04.2015. According to the applicant, a similarly placed person, Manimegalai, applicant in OA 235/2005 were granted relief of regularization and the applicant is being discriminated.

3. The respondents filed reply stating that the applicant was appointed as Part Time Chowkidar with effect from 15.12.1997 while there was ban on employment of Casual Labourers w.e.f. 29.11.1989. The appointment of applicant was reviewed by PMG (Respondent No.1) and notice was issued for termination on 06.01.2005. The applicant then filed OA 42/2005. As per direction of CAT, representation was given by applicant and it was rejected and applicant was terminated by order dated 31.05.2006. The applicant filed OA 437/2006 and the CAT directed the respondents to consider the case of the applicant and pass appropriate orders after disposal of W.P. 33152/2002. The applicant also filed WP 25788/2006 on 21.08.2006 and obtained a stay and applicant continued to work as Part Time Contingent Chowkidar from 01.10.2006. The W.P. 33152/2005 and W.P. 25788/2006 were dismissed by the High Court on 10.07.2009 and 16.12.2011 respectively. In the meanwhile, a post of GDS Mail Packer was created in DMMS by respondent No.2 on 3.4.2008. Since regular appointment cannot be made

immediately, Respondent No.3 engaged the applicant to work in the newly created GDS Mail Packer purely on temporary basis as per order dated 3.4.2008 (Annexure -16). No regular selection has taken place as per rules and he was appointed on a stop gap arrangement. The criterion for selection to the post of GDS is purely on merit. So, the request for regularization was rejected. Immediately, the applicant filed OA 501/2012 and the Tribunal disposed of the OA by order dated 5.8.2014 directing the respondents to consider his appointment again. The applicant filed CA 26/15 but the Tribunal closed the above Contempt Application directing to file fresh OA, if necessary.

4. Both sides were heard.

5. The main contention of the applicant is that since he is similarly placed as the applicant in OA 253/2005, he should also get the benefits given to the applicant therein. The counsel for the respondents would contend that the applicant was engaged as GDS Mail Packer in the vacancy as a Stop gap arrangement and the appointment to the post of GDS can only be on merit. No back door appointments can be made and the applicant is not entitled to get any benefit out of the case of applicant in OA 253/2005. The applicant there in was a Water Carrier and the applicant herein is claiming regularization of his appointment as

GDS Mail Packer. The prayer in this OA is to regularize the applicant as GDS Mail Packer w.e.f. 19.03.2008.

6. We had gone through the pleadings and impugned order Annexure A-34) dated 08.04.2015. The respondent had given a detailed reply stating the various reasons due to which the applicant's case for regularization cannot be accepted. The present post in which the applicant was engaged is not similar to the one held by the applicant in OA 253/2005. So, the applicant who is a GDS Mail Packer is not entitled to get the benefit given to Thangammal (OA 253/2005 confirmed by order in WP 33152/2005) case. There are rules which require merit as the sole criterion for appointment as GDS. The applicant was appointed only as a Stop gap arrangement. Further, the engagement of the applicant as GDS Mail Packer (A16) was not in furtherance of the order of the Tribunal and he was engaged as per his representation dated 22.2.2002 for the same. So, the said engagement was not in consequence to any order passed by the Tribunal. We find nothing to interfere in the impugned order passed in this case.

7. OA will stand dismissed. No costs.

(T. JACOB)
MEMBER(A)

(P. MADHAVAN)
MEMBER(J)

Asvs

02.06.2020