

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

R.A.No.260/1/2020

Date of Reserve:14.01.2020

Date of Order: 20.01.2020

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Union of India represented through:

1. The Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. The Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda, PIN-751 001.
3. The Superintendent of Post Offices, Dhenkanal Division, At/PO/Dist-Dhenkanal-759 001.

...Applicants

By the Advocate(s)-Mr.G.R.Verma

-VERSUS-

Sri Sailendra Kumar Samanta, aged about 50 years, S/o. Late Dhaneswar Samanta of Village/PO-Mahisapat, Via-Dhenkanal R.S., District-Dhenkanal, PIN-759 013.

...Respondent

By the Advocate(s)-

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

This Review Application has been filed by the Respondents in O.A.No.260/1001/2016 seeking review of the order dated 21.10.2019. In the fitness of things, the operative portion of the order dated 21.10.2019 is reproduced herein below:

- "5. From the above, it appears that the respondents have not acted unreasonably or arbitrarily. However, as per clarification issued by the DG Posts the names of GDS employees who have rendered not less than three years' service and their service have been terminated on account of administrative reasons, should be kept in the waiting list for absorption against future vacancies. In the instant case, the duration of service falls short by fifteen days only. Besides, as already indicated above, this Tribunal in O.A.No.439 of 2011 had issued a direction to the respondents authorities to consider the case of the applicant against the GDSBPM, Kottam BO, inter alia,

having regard to his past experience, which could not be complied with by the respondents, since by the time the aforesaid orders of this Tribunal was received by the respondents, the selection had already been over. In view of this, we dispose of this O.A. with a direction to respondents to consider the case of the applicant against a future vacancy in the post of GDS having regard to his past experience and other conditions of rules, provided that he applies for the same".

2. The grounds urged by the review applicants seeking review of the order dated 21.10.2019 are as follows:

- i) The direction of this Tribunal for engagement of the applicant in O.A. in the post of GDS against the future vacancy having regard to his past experience and other conditions of Recruitment Rules is against the GDS(Conduct & Engagement) Rules, 2011, since there is no such providing to take into account the past experience of any GDS for his engagement as such.
- ii) The GDS recruitment is now being held through online web based system in which there is no mention of any past experience and that the selection of GDS for engagement in accordance with the data fed online in system is generated without manual intervention to ensure transparency and fairness in the matter of selection.
- iii) The orders passed by this Tribunal for taking into account the past experience in the course of selection to GDS have put the review applicants at a fix as it would disturb the entire process and system of selection.
- iv) The Hon'ble High Court of Orissa vide order dated 07.08.2018 in W.P.(C) No.1149/2018 modified the orders of this Tribunal dated 20.06.2017 in O.A.No.447 of 2012, with the following directions:

"We modify the order of the Tribunal dated 20.06.2017 passed in OA No.447/2012 deleting the words "and in such eventuality, the experience gained by him as substitute may be taken into account" from the said order. The rest part of the order shall remain unaltered".

3. In view of the above, it has been prayed by the review applicants to modify the order dated 20.10.2019 in O.A.No.260/1001/2016 by deleting the

direction issued by this Tribunal to the effect "to consider the case of the applicant against a future vacancy in the post of GDS having regard to his past experience".

4. By filing M.A.No.19/2020, the review applicants have prayed for condonation of delay suffered by 48 in preferring this R.A. According to review applicants, order dated 21.10.2019 passed by this Tribunal was received by the Superintendent of Post Offices, Dhenkanal Division, Dhenkanal on 01.12.2019 through the Senior Panel Counsel. Therefore, after verification of detailed particulars, this R.A. has been filed.

5. We have considered the points urged by the review applicants. On a perusal of the order dated 07.08.2018 of the Hon'ble High Court in W.P.(C) No.1149 of 2016, it is found that the Petitioners in the said Writ Petition had challenged that part of the order of this Tribunal in O.A.No.447 of 2012 wherein it had been directed that the experience gained by the applicant as substitute may be taken into account while considering his candidature in case any selection in the cadre of Gramin Dak Sevak takes place in the near future. However, in the instant case, the respondent(s)/applicant in O.A.No.260/1001/2016 had been regularly appointed as ED/GDSBPM and his service had been terminated due to administrative reasons. Therefore, the respondent in R.A. had not been appointed as a substitute. In the circumstances, the facts the case before the Hon'ble High Court in W.P.(C) No.1149 of 2016 being distinguishable from the facts in O.A.No.260/1001/2016, reliance placed by the review applicants seeking review of the orders of this Tribunal dated 21.10.2019 is of no assistance. In this connection, it would be apt to quote hereunder Paragraph-3 of the orders of this Tribunal, sought to be reviewed.

"3. We have heard the learned counsels for both the sides and perused the records. While it is the case of the applicant that he should be appointed against a GDS post having regard to his past experience, on the contrary, the standpoint of the respondents is that as per D.G.(P&T) letter No.43-4/77-Pen. Dated 18.05.1997, it is clarified that "efforts should be made to give alternate appointment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge, they had put in not less than three years" service. In such cases their names should be included in the waiting list of ED Agents discharged from service as prescribed in D.G.(P&T) Letter No.43-4/77-Pen. Dated 23.02.1979". Based on this, the respondents have pleaded that the case of the applicant could not be considered for absorption in any future vacancies since he had not rendered 3 years service as EDBPM".

6. Keeping in view the fact that the service rendered by the applicant falls short by 15 days and the fact that earlier vide order dated 11.07.2011 in O.A.No.439 of 2011, this Tribunal had directed to consider the case of the applicant against the vacant post of GDSBPM, Kottam BO as per law particularly, taking into account his qualification and past experience etc., which could not have been implemented since by the time the said order reached the Respondents, selection had already been over, this Tribunal in O.A.No.260/1001/2016 only reiterated the same direction in order to maintain consistency and uniformity in the administration of justice.

7. For the reasons discussed above, we do not find any justifiable reason to review our order dated 21.10.2019 in O.A.No.260/1001/2016 as there is no error apparent in the face of the record. Accordingly, the R.A. is dismissed, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

BKS

(GOKUL CHANDRA PATI)
MEMBER(A)