

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**RA No. 14 of 2019  
OA No. 437 of 2016**

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)  
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

1. Union of India represented through the Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Odisha Circle, Bhubaneswar, Dist.- Khurda – 751001.
3. Superintendent of Post Offices, Cuttack South Division, At/PO/ District – Cuttack – 753001.
4. Asst. Superintendent of Post Offices, Jagatsinghpur Sub Division, At/PO/PS/District – Jagatsinghpur.

.....Applicants

VERSUS

Birabara Behira, aged about 45 years, C/o Jayram Bahira, At-Durgapur, PO-Olarah, Via-Borikina, District – Jagatsinghpur.

.....Respondents.

For the applicant : Mr.S.Behera, counsel

For the respondents: Mr.B.S.Tripathy, counsel

Heard & reserved on : 6.1.2020

Order on : 11.2.2020

**O R D E R**

**Per Mr.Gokul Chandra Pati, Member (A)**

This Revision Application (in short RA) has been filed with a prayer to recall the order dated 26.7.2016 passed in OA No. 437/2016, in which the following directions were given to the respondents :

“4. It is the case of the applicant that the applicant being apprehensive that his candidature may not be considered by the Respondents in the light of the decision of this Tribunal in O.A.No. 798/12, has moved in the present O.A. During the course of hearing on admission, Mr.Tripathy submitted that Respondents may be directed to consider the case of the applicant for the post of GDSBPM Saran BO in account with Kaduapada SO keeping in view the decision of the Tribunal in O.A.No. 798/12. On the other hand, Mr.Behera prayed for further time, to obtain instruction in the matter. Since, adequate opportunities have been granted to Mr.Behera to obtain instruction and apprise this Tribunal vide order dated 04.07.2016 and dated 26.07.2016, we are not inclined to keep this matter pending any further. Therefore, we would direct the Respondents to consider the case of the applicant along with others for the post of GDSBPM Sarana BO in account with Kaduapada, SO in keeping with the decision of this Tribunal in O.A.No. 798/12 provided that applicant has applied for the post in question with the required documents and the selection thereof is not yet over.

5. With the aforesaid observation and direction, the O.A. is disposed of at the stage of admission itself. No costs.”

The respondents had challenged this order before Hon’ble High Court in the Writ Petition WP(C) No. 15831/2018 which was disposed of by Hon’ble High Court vide order dated 13.12.2018 with the following direction :

“However, it appears that no reply was filed by the respondents and therefore, the Tribunal had no occasion to consider the averments of the respondents. Therefore the respondents cannot develop a case here by taking the stands which were not taken before the Tribunal. Learned counsel for the petitioners submits that as the Tribunal disposed of the case at the stage of admission, there was no occasion to file the reply.

In that view of the matter, we grant liberty to the petitioners to go and file a review before the Tribunal taking all the plea and filing the reply.”

2. Accordingly the respondents have filed this Review Application (in short RA) on 13.3.2019 for recalling the order dated 26.7.2016 passed in OA No. 437/2016 (Annexure 6 of the RA). The respondents have also filed MA No. 318/2019 with a prayer to condone the delay in filing the RA for the reasons and circumstances as mentioned in the said MA.

3. Following main grounds have been urged by the applicant in the Review Application :

(i) The circular of DG Posts dated 6.6.1988, pertaining to the engagement of casual labourers, is not applicable to the case of the applicant since his name was not sponsored by the Employment Exchange.

(ii) The case of the applicant was to be considered as per the departmental rules and instructions which cannot be treated as an assurance.

(iii) The selection procedure for the GDS has been modified to an online procedure instead of earlier offline application process and the knowledge of computer is essential as an eligibility criteria. It is also stated that no time was given to the counsel for the respondents in the OA for appraising the status of the case when the impugned order was passed in the admission stage. The applicant was not eligible to be considered for the post of GDS in view of the age criteria as stipulated in the order dated 7.9.2017.

(iv) It is further stated in the RA that the authority who had engaged the applicant at Borikina Sub Post Office on 18.8.2003 was not the competent authority to do so and the engagement was without the approval of the higher

authority for which the applicant was not entitled to be appointed in the department.

(v) The impugned order dated 26.7.2016 and the order dated 22.3.2018 passed in CP No. 30/2017 (Annexure 12 of the RA) are illegal and misconceived and these orders are liable to be quashed.

4. The review respondent (applicant of the OA), upon notice, has filed Counter to the RA and also objection to the MA No. 318/2019. Regarding the MA, it is stated that this RA was filed after a lapse of 2 years and 8 months after disposal of the CP No. 30/2017 filed for non-compliance of the order dated 26.7.2016 of this Tribunal. It is stated that although Hon'ble High Court vide order dated 13.12.2018 directed the review applicants (OA respondents) to file RA but the same was filed on 13.3.2019 which is beyond the period of 30 days as stipulated under the Rule 17(1) of CAT (Procedure) Rules, 1987. It is also stated that the grounds mentioned in the MA No. 318/2019 are not sufficient for justifying the condonation of delay.

5. Apart from the grounds of limitation, the RA has been opposed in the Counter filed by applicant in the OA on the ground that the applicant had approached the Tribunal in OA No. 233/2009, which was disposed of with a direction to consider the representation of the applicant. Then he also filed OA No. 798/2012 seeking a direction to the respondents to give preference to the applicant above the freshers as per instruction dated 6.6.1988. The OA No. 798/2012 was disposed of with a direction to the respondents to consider the case of the applicant along with the other candidates. The applicant had also filed OA No. 437/2016, which was also disposed of vide order dated 26.7.2018, with a direction to the respondents to consider the case of the applicant along with other candidates in view of the decision in OA No. 798/2012. When the order dated 26.7.2016 was not implemented, the applicant filed the MA No. 808/2016 which was finally disposed of vide order date 23.6.2017 (Annexure R/1) with the following observations :

“Mr.S.Behera, Ld. Sr. Central Govt. panel Counsel appearing for the Respondents, has filed a memo enclosing the instructions of the Department dated 22.06.2016 in which the Respondents have submitted that they have

decided to implement the orders dated 26.07.2016 passed by the Tribunal in OA No. 437/2016 by considering the case of the applicant at the time of making selection to the post of GDS BPM, Saran B.O. in account with Kaduapara S.O. In considering this submission, Ld. Counsel for the applicant has also prayed that in view of the fact that the Respondents will implement the orders, M.A.No.808/2016 may be, thus disposed of.”

6. Heard learned counsels for the review applicant and the respondents.

7. Regarding MA No. 318/19 for condoning the delay in filing the RA, it is seen that the rule 17 of the CAT (Procedure) Rules, 1987 stipulates a time limit of 30 days to file the RA. In this case, the review applicants have filed beyond 30 days from the date of the order dated 13.12.2018 of Hon’ble High Court by which liberty was granted to the review applicants to file the RA. The Rule 17(1) of the CAT (Procedure) Rules, 1987 states as under:-

**“No application for review shall be entertained unless it is filed within 30 days from the date of receipt of copy of the order sought to be reviewed.”**

Hence, there is a clear stipulation under the rules that the application for the review of the order of this Tribunal shall not be maintainable, unless it is filed within time as specified under the rule 17. In this case, it has not been stated that the RA has been filed within 30 days from the date of receipt of a copy of the order dated 13.12.2018 of Hon’ble High Court giving liberty to the review applicants to file this RA.

8. The issue of delay in filing the Review Application under the Administrative Tribunals Act, 1985 was examined by the Full Bench of this Tribunal (Principal Bench) in the case of **Raghava Reddy, AE (Civil) and others vs. Union of India and others reported in 2010 (1) SLJ (CAT) 1**, and it was held by the Full Bench in that case as under:-

“51. In terms of the decision of the Full Bench of Hon’ble Calcutta High Court and Hon’ble Gujarat High Court, we hold that this Tribunal has the power to condone the delay in filing of review applications on sufficient cause being shown. The decisions of the Benches of the Tribunal contrary to this enunciation of law are held to be bad in law. The individual review applications may be placed before the concerned Benches for disposal in accordance with the law as explained above.”

9. In view of the position of law as above, it would be possible to condone the delay in filing the Review Application if there are sufficient reasons in the MA No. 318/19 explaining the delay. Taking into account the facts and circumstances of the case, we consider the grounds in the MA to be sufficient to explain delay in filing the RA. Hence, the MA No. 318/19 is allowed and the delay in filing the RA is condoned.

10. Regarding merit of the RA, it is seen that the review applicants were directed in the order dated 26.7.2016 in OA No. 437/2016 to consider the case of the applicant alongwith other candidates for the post of GDSBPM Sarana BO

provided the applicant has applied for the said post with the required documents and the selection thereof was not over. There is nothing in the order to direct the review applicants to select the applicant if he had not applied for the post in question or if he was not eligible for such post on the basis of the documents furnished by the applicant. From the impugned order dated 26.7.2016, it was clear that the applicant's case is to be considered alongwith other candidates if the selection for the post of GDSBPM Sarana was not over. If the applicant was not found to be eligible as per the rules, it was open to the respondents to reject his candidature after due consideration as per the directions in the impugned order. There is nothing in the order by which the review applicants were prejudiced since as per the existing rules for selection of the GDS, if the applicant would have applied in response to the advertisement for the post of GDSBPM Sarana (either offline or online), then his case was required to be considered as per the applicable rules. The impugned order of the Tribunal directed the review applicants to consider the applicant's case for the post if he had applied and if the selection for the post was not completed already.

11. It is noticed that no mistake or error apparent on the face of the record or any new facts relevant to the case which was not considered by the Tribunal at the time of passing the impugned order except the ground that the order was passed without calling for reply of the respondents, has been furnished in this Review Application. It is seen that the impugned order dated 26.7.2016 was in the same line as the order passed by this Tribunal in OA No. 798/12 which was not challenged by the review applicants. As discussed earlier, no prejudice was caused to the review applicants by the impugned order dated 26.7.2016.

12. In view of the discussions above, we are of the opinion that no valid ground has been made out by the review applicants under provisions of law to justify review of the impugned order dated 26.07.2016 of the Tribunal passed in OA No. 437/2016. The Review Application is accordingly liable to be dismissed and hence, it is dismissed. There will be no order as to cost.

(SWARUP KUMAR MISHRA)  
MEMBER (J)

(GOKUL CHANDRA PATI)  
MEMBER (A)