

MA No. 351/2020 & MA No. 352/2020 in OA No. 395 of 2014

Sujata Routray

vs.

Union of India represented through Secretary-Cum-Director General of Post & Others

Order reserved on 16.10.2020

Date of Order: 11.11.2020

For applicant: Mr. N. R. Routray, counsel.

For respondents: Mr. G. R. Verma, counsel.

ORDER

The applicant has filed the OA No. 395 of 2014 against the rejection of her representation for appointment in P.A. Cadre. The applicant has averred in the OA that her father while working as Group D in Rameswar S.O. in Cuttack South Division expired on 03.06.1997 leaving behind the applicant, her sister and widow mother. The circle relaxation committee taking into consideration the condition of the family had approved the case of the applicant for giving posting in P. A. Cadre vide order dated 08.10.1997 (Annexure A/2). But she was given training and allowed to work on daily wages basis in the PA Cadre against leave vacancy under Athagarh Head Post Office from time to time up to 07.03.2001 by Respondent No. 3 vide office orders at Annexure A/3. After working for about three and half years in different spell, the applicant was not given regular posting and she was asked to exercise her option for a P.S other ministries/department to serve in any other place and department. The respondents finally offered the post of GDSBPM Bindhanima B.O. in account with Tigiria S.O under respondent No. 3. The applicant having no other option accepted the job of GDSBPM of Bindhanima B.O. She further averred that some other candidates who were approved against PA cadre were given posting in PA Cadre and some candidates who were given adhoc posting in PA Cadre and subsequently in GDS posts approached this Hon'ble Tribunal and being unsuccessful approached Hon'ble High Court and they have been given posting in PA Cadre vide order passed in WP (C) No. 6812/2003 and WP (C) No. 12969/2004 (Annexure A/6). When the applicant came to know about it she made a representation to respondent No. 2 vide Annexure A/7 for giving her posting in PA cadre by treating her like those who approached Hon'ble High Court. But due to inaction of respondents the applicant approached this Tribunal in OA No. 254/2013 in which the Tribunal vide order dated 29.04.2013 directed the Respondent No. 2 (Annexure A/8) to dispose of her representation stating that her case is not on the grounds of applicant's who were appointed by virtue of the order of Hon'ble High Court. The applicant then filed the OA No. 395/2014. The OA was dismissed for default on 09.05.2018. Thereafter in August, 2020, the applicant has filed the MA No. 352/20 for restoration of the OA under the rule 15(2) of the CAT (Procedure) Rules, 1987 with the MA No. 351/20 for condoning delay in filing the MA No. 352/20.

2. It is stated in the MA No. 351/20 that on 09.05.2018 the OA was dismissed due to non-appearance of Mr. P. K. Padhi the applicant's counsel because he was empanelled as Additional Standing Counsel, Govt. of India for which he could not represent the petitioner before the Tribunal when the matter was called for and could not attend on the date it was listed. On being aware of the order being a lady she could not contact any other advocate to conduct her case and when the petitioner contacted other counsel to engage in her case, it came to her knowledge that because of cessation of court work no petition can be filed till the recall of cessation of court work and thereafter, the MAs were filed. It is stated that the delay on the applicant's part was not deliberate.

3. In MA No. 352/20 for restoration, it is stated that since applicant's counsel was empanelled as Additional Standing Counsel he could not represent the applicant and did not attend the Tribunal and that the delay was neither intentional nor deliberate. Hence, it is prayer to recall the order dated 09.05.2018 has been made in the MA.

4. Learned counsel for the applicant and respondents were heard on the matter. The applicant's counsel emphasized the point that since the applicant was lady she could not immediately contact any other advocate to conduct her case i.e. to file the application to recall the order dated 09.05.2018 and due to cessation of court work no petition could be filed. The respondents' counsel objected to the MAs on the ground that no satisfactory explanation for the delay in filing the MA No. 352/20 has been furnished.

5. The claim made by the applicant that his previous counsel was empanelled as Additional Standing Counsel for which the said advocate would not represent the applicant in this case has not been successfully challenged by the other side. In the circumstances, once the applicant had engaged one counsel and the said counsel could not take any step in this case before this Tribunal, therefore the applicant being a party should not suffer, due to laches, if any by the said advocate. In the above circumstances it is necessary in the interest of justice to give the applicant a scope to put forth his case on merit before this Tribunal, by condoning the delay in filing the restoration application and by restoring the original application. Hence both the MA's are allowed and OA is restored to file. In view of the order passed today, this OA is restored to file. Call on 08.12.2020 for further orders.

(SWARUP KUMAR MISHRA
MEMBER (J)

(GOKUL CHANDRA PATI
MEMBER (A)