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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 272 of 2004
Cuttack, this the 29 th day of March, 05

Pitabash Gouda

..... Applicant


- VERSUS -

Union of India & others

..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not ? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*


(G. SHANTHAPPA)
MEMBER (JUDICIAL)


(B.N.SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI G.SHANTHAPPA, MEMBER (JUDICIAL)

...

Sri Pitabash Gouda, aged about 30 years, S/o Gurbur Gouda,
Village/P.O. Chaitanyapur, Via-Padmanavapur, Dist.Ganjam.

..... Applicant

Advocates for the applicant

..... M/s.S.P.Mohanty &
P.K.Lenka

Versus-

1. Union of India, represented through the Chief Post Master General, Orissa Circle, Bhubaneswar.
2. Post Master General, Berhampur Region, At/P.O. Berhampur, Dist.Ganjam.
3. Senior Superintendent of Post Offices, Berhampur (Ganjam) Division, Berhampur, Dist.Ganjam.

..... Respondents

Advocates for the Respondents

.....Mr.S.B.Jena (ASC)

.....

O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN:

Shri Pitabash Gouda has filed this application seeking for a direction to the Respondents to fill-up the post of GDSEBPM, Chaitanyapur B.O. by considering his case for that appointment keeping in view the direction of this Tribunal passed in O.A.No.317/99.

2. The facts of the case in a nutshell are that the applicant was provisionally appointed as EDBPM, Chaitanyapur, BO on 10.9.96. His services were terminated on reinstatement of the regular incumbent of the post. He had in the meantime worked for 2 years 9 months. A short while, thereafter, on 16.8.2000 the said post fell vacant. But the applicant was not given fresh appointment. Being aggrieved, he filed an O.A.No.317/99 which was disposed of on 23.3.01 with the direction that his case should be examined by the departmental authorities for appointment to the post of EDBPM, Chaitanyapur and in that event experience already gained by the applicant should also be taken into account. It was also directed that the applicant was earlier appointed to the post through a process of selection should also be taken into account by the departmental authorities. The grievance of the applicant is that the Respondents have not implemented this direction of the Tribunal both in letter and spirit. He has alleged that the Respondents have issued an advertisement to fill up the post but the post has not been filled up for the reason(s) best known to the Respondents Department.

3. The Respondents have opposed the application in all

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respects. They have disclosed in their counter that it is a fact that the applicant worked as GDSBPM (erstwhile EDBPM) Chaitanyapur, and that the post fell vacant with effect from 1.1.2001. That vacancy was notified to the District Employment Officer who sent a list of 40 candidates (Annexure-R/5) for consideration for selection. But the name of the applicant did not figure in that list. Their further contention is that the applicant having worked for 2 years 9 months 4 days is not entitled to any preferential treatment (for alternative appointment) in terms of D.G. P.&T. Letter No. 43-4/77/PEN dtd. 23.2.79. They have also submitted that the direction of the Tribunal in O.A.No. 317/99 was meant for consideration of the candidature of the applicant in a put off duty vacancy and as no such vacancy having arisen in the intervening period, the grievance ventilated by the applicant in this regard is without merit.

4. We have heard the Ld. Counsel for both the parties and have perused the records placed before us.

5. The undisputed facts of the case are that the applicant had, after facing regular selection process, worked for 2 years 9 months. Thereafter he has been waiting for appointment on regular basis. The post of GDSBPM, Chaitanyapur BO was notified to the District Employment Officer on 10.5.02, but the name of the applicant was not sponsored by that employment officer. The Respondents have admitted that they have not made any public notification of the vacancy. It is also a fact that the applicant had visited this Tribunal on 24.6.02 in M.A.No. 1007/01 arising

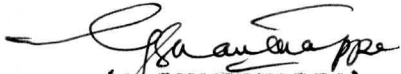
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out of O.A.No.317/99, when the Tribunal was pleased to direct the Respondents to give due consideration to the experience of the applicant while undertaking the process of selection for the post of EDBPM/GDSBPM, Chaitanyapur BO. It also appears that when the matter was heard on 24.6.02, when none of the parties brought to the notice of the Tribunal that the post had been advertised to the Employment Exchange. The Ld.Counsel for the Respondents was duty bound to apprise the Tribunal of the correct state of affairs which did not happen. However, the Ld.Addl.Standing Counsel for the Respondents now submits that more than notifying the vacancy to the District Employment Officer, the Respondents have not made any public notification of the vacancy. They have also not completed the selection process due to ban order in the matter of filling up of new vacancies in GDS.

6. From the above facts, it appears that the application is premature because no selection has taken place to the post. Although this issue has not been raised by the applicant we find that the Respondents have not gone into the matter of selection according to the procedure prescribed for filling up of vacancies of GDSBPM as they have not so far notified the vacancy to the public. We, therefore, direct the Respondents that as and when they decide to fill up the post of GDSBPM, Chaitanyapur BO on a regular basis, they should notify the vacancy to the public whereupon only the applicant will have an opportunity to apply for the job. Although in the circumstances of the case the O.A.

filed by the applicant is premature, we, however, condone this technical lapse and direct the Respondents to consider the candidature of the applicant as and when they decide to fill up the post on regular basis after notifying the vacancy to the public.

7. Accordingly this O.A. is disposed of with the above direction. No costs.


(G. SHANTHAPPA)
MEMBER (JUDICIAL)


(B.N.SOM)
VICE-CHAIRMAN

SAN/