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O.A.NO. 679 OF 2005

Order dated 5.7.2006

The applicant had offered his candidature for the post of GDSBPM of Basoi B.O. under Dhenkanal Postal Division, in response to a vacancy circular dated 18.10.2000. This post was reserved for ST community. The applicant's bio data was verified and the Respondents being satisfied with regard to the marks secured by the applicant, appointed the applicant to the post of GDSBPM. Subsequently, another candidate Nirmal Kumar Sahoo filed OA No. 1042 of 2002 challenging the appointment of the applicant. The Tribunal by their order dated 12.12.2003 allowed the O.A. as under:

"For the reasons discussed above, we direct the Respondent-Department to include the name of the applicant in the zone of consideration for the post of GDSBPM, Bisoi Branch Office along with others and the selection be made afresh. For this purpose, we hereby quash Annexure A/4 dated 5.4.2002 and direct the Respondent-Department that the selection as directed above shall be completed within a period of two months from the date of receipt of this order.":

Pursuant to the aforesaid direction, the Respondent-authorities considered the applicant's case vis-à-vis the case of Nirmal Kumar Sahoo and after

review of the marks of Nirmal Kumar Sahoo and the applicant, the former figured at Sl.No.1 whereas the applicant was placed at Sl.No.2. Since the candidate at Sl.No.1 could not satisfy the other conditions for appointment to the post of GDSBPM, he was not given appointment. In the meanwhile there was a ban order imposed on appointment to GDS posts, as a reason whereof the case of the applicant was not considered. Being aggrieved by the action of the Respondent-authorities in not giving him appointment to the post of GDSBPM, Bisoi B.O., the applicant has filed this O.A.

2. Mr.D.P.Dhalsamant, the learned counsel for the applicant, has submitted that on the first occasion the applicant was appointed to the post of GDSBPM, Bisoi B.O. But on a technical reason, after intervention by the Tribunal, his appointment was terminated. After fresh verification of records of the present applicant along with that of Nirmal Kumar Sahoo, the name of Nirmal Kumar Sahoo figured at Sl.No.1 of the merit list. But, however, the applicant's name is stated to have been placed at Sl.No.2. Since Nirmal Kumar Sahoo, who figured against Sl.No.1, on other grounds, could not be appointed to the post, the ban order, as submitted by the Respondent No.2, does not attract the present situation in as much as the post was already filled up by the Respondent-authorities, but for technical reason the appointment of the applicant was terminated. He has also placed reliance on the circular

issued by the Department of Posts, dated 26.2.2004., whereby it has been made crystal clear that the issue of filling up any vacant post of GDSs can be taken up by the CPMG keeping in view the justification in terms of workload or due to unavoidable reasons, such as, existing Court/CAT orders, or where selection was already over prior to receipt of the letter dated 14.8.2003. Here in this case the applicant was selected on 5.4.2002. But due to the order passed by the Tribunal, his appointment was cancelled. Therefore, the workload was very well present in the GDSBO, Bisoi, which is a justifiable reason for filling up the said post.

3. We are, however, of the view that the Chief Post Master General, Orissa Circle, Bhubaneswar, is the best authority to decide as to whether there is still workload in the GDSBO, Bisoi and whether there are justifiable reasons for filling up the post of GDSBPM. Then the question arises as to whether the applicant would be appointed to the post of GDSBPM, Bisoi. The relative merit list has not been placed before us. In such background, we hereby direct Respondent No.3, the Superintendent of Post Offices, Dhenkanal Postal Division to refer to the merit list and if it is found that the applicant is placed against Sl.No.2 in accordance with the merit, his case may be considered for appointment to the post of GDSBPM, Bisoi GDSBO,

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notwithstanding the bar as stated by the Respondents in their counter, within a period of four months from the date of receipt of this order.

4. With the above observation and direction, the O.A. is disposed of. No costs.

(B.B.MISHRA)
MEMBER(A)


(B.PANIGRAHI)
CHAIRMAN