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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK


Original Application No. 102 of 2006
Cuttack, this the 21st day of May, 2009

Bijaya Kumar Guda Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 102 of 2006
Cuttack, this the 21st day of May, 2009

C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
A N D

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

.....
Sri Bijaya Kumar Gauda, aged about 50 years, son of Late Hadu Gauda, presently working as Postal Assistant, At/Po:Kodala SO, Dist. Ganjam (O), permanent resident of Village/Matha Barida, Post: K.Barida, PS: Kodala, Via. Beguniapada, Dist. Ganjam (O).
.....Applicant

Advocate for Applicant: Mr. P.K.Padhi.

-Vs-

1. Union of India represented by Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Secretary, Department of Telecom Sanchar Bhawan, New Delhi-110 001.
3. Chief Postmaster General (Orissa Circle), At/Po-Bhubaneswar, Dist. Khurda-751 001.
4. Postmaster General, Berhampur Region, At/Po-Berhampur Region, Dist. Ganjam-760 001.
5. Sr. Superintendent of Post Offices, Berhampur Division, At/Po. Berhampur, Dist. Ganjam (O) 760 001.
6. Director of Accounts, At-Mahanadi Vihar, Po. Naya Bazar, Cuttack-4.

....Respondents

Advocate for Respondents: Mr.U.B.Mohapatra,SSC

O R D E R

Per- MR.C.R.MOHAPATRA, MEMBER (A):-

Applicant is a Postal Assistant of the Department of Posts posted at Kodala Sub Post Office in the District of Ganjam. His grievance is that though he qualified in Part- I and II JAO (Junior Accounts Officer) Examination in the year 1991 and 1994 but he was neither absorbed in the Postal Department nor was he sent on deputation to other Department. According to him, repeated representations submitted by him requesting either for absorption or sending him on deputation did not yield any result. Hence by filing this Original Application he has sought the following reliefs:

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“To direct the Respondents to absorb the applicant as Junior Accounts Officer (JAO) in the department as early as possible and further be pleased to direct the Respondents to pay the scale of JAO to the applicant from the date of passing the JAO with all consequential service benefits.”

On 01.02.2006 this Tribunal while directing notice to the Respondents has specifically ordered as under:

“Order dated 01.02.2006.

Subject to question of limitation to be examined at the final hearing, issue notice to the Respondents requiring them to file counter within six weeks.

Pendency of this case shall not stand on the way of the Respondents to give full consideration to the case of the Applicant; which they should do (along with other candidates) without prejudice to the rival claims to be examined in this Original Application.

Send copies of this order, along with notices, to the Respondents and free copies of this order be given to Mr. P.K.Padhi, Learned Counsel appearing for the Applicant and to Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel for the Union of India; on whom a copy of this OA has already been served.”

2. Respondents filed their counter opposing the contentions raised by the Applicant in his Original Application in support of the prayers quoted above. Their stand is that the Applicant entered in the Department of Post as a Postal Assistant with effect from 26.09.1980. The said Shri Gouda appeared and qualified the departmental examination for Junior Accounts Officer (JAO) part I and part II in the year 1991 and 1994 respectively. The name of the Applicant was placed at Sl.No.7 of the 16 waited-listed qualified officials for promotion to JAO. The JAO examination was conducted for preparing an eligibility list of departmental candidates to fill up the vacancies that are arising in JAO cadre and the qualified candidates are only absorbed against the vacancies in Postal Department alone and there is no alternative route for their absorption. Sometimes other

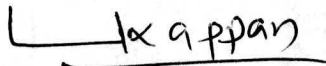
departments call for willingness of qualified candidates on deputation basis. The applicant could not be absorbed due to non-availability of vacancies. However, it has been admitted by the Respondents that his case will receive due consideration in its turn against future vacancies. Accordingly, the Respondents prayed for dismissal of this OA.


3. Learned Counsel appearing for respective parties have reiterated their stand taken in the pleadings and having heard them at length perused the materials placed on record.

4. However, during hearing by filing copy of the office order dated 23.4.2008, learned counsel for the applicant has brought to the notice of this Tribunal that during the pendency of this OA, the Applicant has been promoted to the post of JAO. However, he insisted for issuance of direction to the Respondents to promote him earlier than his actual promotion vide office order dated 23.4.2008. We find no substance in this submission of the Applicant; because the applicant has not been able to prove that any of the wait listed candidates having been placed below him has been promoted earlier than his promotion vide order dated 23.4.2008. It is the specific case of the Respondents that promotion of applicant could not be effected due to non-availability of vacancies and there are several other candidates available above him to be absorbed in the grade of JAO. So far as sending the applicant to other department on deputation is concerned, we may record that even other wise this prayer of applicant cannot be accepted because sending an employee on deputation is a tripartite decision. That-apart no employee has any vested right to claim to go on deputation against the will of the

principal employer. Since this Original Application sans any merit, though limitation stares at the Applicant, the same is not required to be discussed any more.

5. In view of the above, we find no merit, in this OA. This OA is accordingly dismissed. No costs.


(JUSTICE K.THANKAPPAN)
MEMBER (JUDICIAL)


(C.R.MOHAPATRA)
MEMBER (ADMN.)

Rjm,po