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O.A. No.297/08

ORDER DATED 5th SEPTEMBER, 2008

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

Heard Mr. B.B. Patnaik, Ld. Counsel appearing for the applicant and Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel for the Respondents.

2. The claim of the applicant is that he is entitled for regularization of his substituted service. To support his case he has relied on the order passed by this Tribunal in O.A No.319/97. Further, the applicant submits that he had approached this Tribunal in O.A.174/97, which was disposed of as per Annexure-A/4 order.

3. We have gone through the entire averments in the O.A and the order relied on by the Ld. Counsel for the applicant. As per the direction issued in O.A. No.319/97, which was filed by similarly placed persons, this Tribunal while disposing of the same held as under:-

"As the Respondents have admitted that the Applicants are working as Mazdoors, though in very very short spells since 1984-85 they need to closely look at the feasibility of giving the applicants some appointments; which have more assured tenure of service; may be to start with as ED Mailmen under the Department because the Department have found them useful




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for their jobs over these years. We hope and trust that in the interest of justice, having regard to the long association of these applicants with the department and the fact that they have been serving usefully and satisfactorily the purpose of the Department they do deserve sympathetic consideration for appointments against the ED post for which they may be eligible”.

4. It is to be noted that when the order as per Annexure-A/4 was passed, this Tribunal had also taken note of the O.A No.319/97, as quoted above. On going through the order in O.A. 174/97 we see that there is no specific direction to regularize the service of the applicant therein. However, this Tribunal only directed the Respondents to consider the case of the applicants. In this context, the Respondents also considered the representation dated 01.10.1996 filed by the applicant. In Annexure-A/3 order, it is stated that there is prescribed recruitment rules for recruitment to the post of ED Mail Man, and there is no such provision to consider the cases of outsiders for the post of ED Mail Man without following the recruitment procedure, on the basis of past experience. It is to be noted that this order (Annexure-A/3) was also the subject matter of challenge in O.A.174/97.

5. Having regard to the submissions made by the Ld. Counsel for the applicant, we are of the view that as no specific direction was issued by this Tribunal for regularization of the service of the applicant and the reasons that Annexure-



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A/3 was considered by this Tribunal in O.A.174/97, the present O.A is a misconceived one. However, the applicant, if so advised, may prefer a representation to the authorities ventilating his grievance. If such representation is received the same shall be considered, disposed of by the Respondents and result thereof^{be} communicated to the applicant, within one month¹¹ from receipt of the representation.

6. With the above observation and direction this Original Application is ~~dismissed~~^{disposed off}.

Member (A)

K. Appan
MEMBER (J)