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O.A. No. 119/09

ORDER DATED 31<sup>st</sup> MARCH, 2009


Coram:

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

Heard Mr. D.R. Pattnayak, Ld. Counsel for the applicant and Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel for the Respondents.

2. Due to non - implementation of the assurance given by the Respondents before this Tribunal as well as the Hon'ble High Court of Orissa, the applicant has filed the present Original Application for a direction to the Respondents No.5 & 6, the Sub-Divisional Inspector of Post Offices Cuttack North Sub-Division & the Asst. Supdt. of Post Offices, Cuttack East Sub-Division respectively, to consider his application for appointment to the post of GDS Packer-cum-Mail Carrier in pursuance to the notification dated 26.02.09 (Annexure-9) in the light of the direction and observations issued by this Tribunal as well as the Hon'ble High Court of Orissa.

3. The applicant had approached this Tribunal more than three times by filing different O.As and C.P. and also approached the Hon'ble High Court of Orissa to get an appointment in the Department on the basis of his past service rendered by him in different spells and also the experience



which he had with the Department. The applicant also placed reliance on the circulars issued by the Director General of Posts from time to time to get this appointment. When the applicant filed two earlier O.As., i.e., O.A. No.331/02 and O.A. No.594/06 with more or less the same prayers, this Tribunal had directed the Department to consider his application, for appointment, as prayed for therein. It is also to be noted that the applicant filed a W.P.(C). No.16551 of 2008 and also C.P. No.01/07. In these O.As and C.P. this Tribunal had ordered to consider the case of the applicant and finally as per order dated 01.07.08 in C.P. No.1/07 this Tribunal had directed that "the application of the applicant dated 08.08.07 shall be taken into account for appointment as and when vacancy will arise for filling up of any vacant post of GDS Packer-cum-Mail Carrier, Barabati Sub-Office on merit". After the disposal of the C.P. proceedings the applicant has taken this matter before the Hon'ble High Court of Orissa by filing W.P.(c). No.16551 of 2008. The Hon'ble High Court of Orissa after hearing the Ld. Counsel for the parties directed as follows:-

"In view of the above, there is no occasion for us to pass any order. More so, the petitioner is working as a contingent Waterman since 1996; therefore, the question of his ineligibility concerning age in the instant case would not arise.

We, therefore, dispose of the Writ Petition with the observation that as soon as the ban is lifted the case of the petitioner may be considered giving effect to the order of the Tribunal as aforesaid."

4. However, the present O.A. is based on the orders passed by this Tribunal in O.A. Nos.331/02 and O.A. No.594/06



as an advertisement has been published by the Department to fill up the post of GDS Packer-cum-Mail Carrier as per Annexure-A/9 advertisement. Considering all these aspects and the orders given by this Tribunal, it is only proper for the Tribunal to dispose of this application at the admission stage with a direction to the Respondents to consider the application of the applicant along with other applicants who applied for the post of GDS Packer-cum-Mail Carrier in pursuance to Annexure-A/9. Even though the applicant is not entitled for any preference, <sup>as such</sup> the authorities shall consider his application for the post in the light of the orders passed by this Tribunal in O.A. Nos.331/02 and O.A. No.594/06.

5. With the above direction this O.A. stands disposed of. No order as to costs.

6. Copy of this order may be handed over to the Ld. Counsel appearing on either side.

L. K. Appan  
MEMBER (J)