

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 98 of 2010

Tapan Kumar Nayak Applicant
Versus
Union of India & Others Respondents
.....

Order dated: 21-4-2010

C O R A M

THE HON'BLE MR.B.V.RAO, MEMBER (JUDICIAL)
And
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (ADMN.)
.....

Heard Mr.Dhuliram Pattnaik, Learned Counsel for the Applicant and Mr.S.Mishra, Learned Additional Standing Counsel for the Union of India, appearing on notice for the Respondents and perused the materials placed on record.

2. By filing this Original Application under section 19 of the A.T. Act, 1985, the Applicant seeks the following relief:

- “(i) To give necessary direction to the Respondents to consider the case of the applicant for appointment against the post of GDS MC in Raipur Branch Office in account with Fulnakhara Sub Post Office under the Chandni Chouk Head Office;
- (ii) To direct the Respondents to regularize the case of the applicant against the post of contingent waterman;
- (iii) And such other order/direction as deemed fit and proper to the facts and circumstances of the case.”

3. The Applicant earlier also approached this Tribunal in OA No.594 of 2006 and the same was disposed of by this Tribunal on 28.8.2006 with certain direction. Alleging non-compliance of the said order, he also filed CP No.01/2007. By order dated 01.07.2008, CP No.01/2007 was disposed of by this Tribunal with the following observation & direction:

“Heard Mr.D.R.Pattnaik, Ld. Counsel appearing for the Applicant and Mr. U.B.Mohapatra, Learned Senior Standing Counsel for the Respondents. As a reply to the show cause notice, it is reported that the application of the applicant dated 08.08.07 was duly considered and application will be taken into account

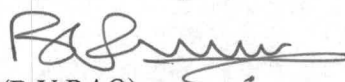
L

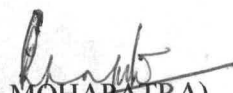
7

for appointment as and when vacancy will arise for filling up of any vacant post of GDS Mail career, Biribati Sub Office on merit."

4. Respondents issued notice under Annexure-A/7 inviting applications for filling up of the post of GDS Packer cum Mail career, Nimsahi SO. The last date of receipt of application in the said notification is provided as 11-01-2010. Applicant's contention is that pursuant to the said notification he has offered his candidature followed by representation seeking appointment to the post. But till date there is no progress in the matter. Law is well settled that merely because there is a vacancy or invitation of application, the same will not confer any right on a candidate to claim appointment nor insist the Respondents to fill up the post. No doubt one may have absolute right for consideration along with others when such consideration will be given to the candidature of all eligible candidates by the Respondents. Direction was also issued by this Tribunal in earlier cases filed by the Applicant that Respondents will consider the case of applicant whenever they intend to fill up any ED post. However, it was fairly submitted by Learned ASC appearing for the Respondents that pursuant to the notice inviting application, Respondents have received the application of the applicant along with others and they will consider the candidature of the Applicant along with others as per Rules, at the appropriate time. In view of the above, the first prayer of the Applicant has been met. In regard to the second prayer of the applicant ~~that~~ to direct the Respondents to regularize the service of applicant against the post of Contingent Waterman cannot be accepted as there is no provision for regularization of an employee against "Contingent Waterman".

5. In the result, with the observations and directions made above, this OA stands disposed of. No costs.


(B.V. RAO)
MEMBER (JUDL.)


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