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O.A.No.105/2010

ORDER DATED 12th MARCH, 2010

Coram:

Hon'ble Mr. M. R. Mohanty, Vice-Chairman
Hon'ble Mr. C.R. Mohapatra, Member (A)

Heard Mr. P.K. Bhuyan, Ld. Counsel for the applicant and Mr. S.B. Jena, Ld. Addl. Standing Counsel for the Respondents to whom a copy of this O.A. has already been supplied.

2. Applicant served and gathered some experience as an Extra-Departmental Temporary Staff in Postal Department. He was replaced from Extra Departmental Post by making another temporary arrangement and, therefore, when he approached this Tribunal, on an earlier occasion, the Respondent Department was asked to consider his case. In fact one temporary hand ought not to have been replaced by another temporary hand/arrangement; un-less very compelling reasons are/were there. Thatapart, while considering his case, as against vacant posts, the authorities ought to have taken for consideration the past experiences of the Applicant. Despite his representations to the authorities/Respondents, as it appears, the Applicant has not yet got any fruitful results and, in the said premises, he has, again, approached this Tribunal with the present Original Application filed under Section 19 of y

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the Administrative Tribunal's Act, 1985; wherein he has prayed as under:-

- “ (i) To direct the Respondents to consider the case of the Applicant for providing alternative appointment to the applicant against the existing one of the GDS vacancies lying under the Respondent No.3;
- (ii) And further be pleased to pass any other order/orders as deemed fit and proper in the circumstances of the case;

3. Earlier the Applicant approached this Tribunal in O.A. No.618/2002. The said case was dismissed on 23.04.2003. Relevant portion of the said order dated 23.04.2003 reads as under:-

“Applicant was engaged as a substitute GDSBPM of Dakhin Khadas BO for sometime. When regular vacancy arose in the said post office, he made certain representations. Department, in order to fill up the post of GDSBPM of Dakhin Roads BO issued notifications. In response to that, applications were received and, on consideration of the same, the intervenor Ms. Geetanjali Mishra was given appointment. It appears that the applicant did not apply in response to the advertisement issued for the post of GDSBP, Dakhinroad BO. Therefore, the prayer in this O.A., virtually, challenging the recruitment of the intervenor Ms. Geetanjali Mishra cannot be entertained at all, because the applicant did not apply for the post, in response to the advertisement issued by the Department. Therefore, this O.A. is dismissed being devoid of any merit. No costs.”

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4. In the above said O.A. No.618/2002, the Applicant filed M.A.315/2003, which was also disposed of by the order dated 23.04.2003; relevant portion of which reads as under:-

"In the present M.A. No.315/2003, he has prayed for a direction to the Supdt. of Post Offices concerned to give due consideration to his representation and to give him due waitage for the reasons of the experience gained by him in the matter of temporary engagement of GDSBPM of Haripur Branch Post Office. It appears that no advertisement has yet been made for filling up of the vacancy of GDSBPM of Haripur BO and, in the said premises, if the Department is going to temporarily filled up the post of GDSBPM of Haripur BO then the Respondents should give due consideration to the representation of the Applicant, who had certain experience to work as GDSBPM. With these observations and directions, M.A. No.315/2003 is disposed of.

5. Applicant again approached this Tribunal with M.A. No.825 of 2003; which was dropped on 22.10.2003. Relevant portion of the order dated 22.10.2003 reads as under:-

"...the Applicant has drawn my attention to the fact that the Departmental Respondents are continuing the Branch Post Office of Haripur in account with Pipili Sub-post Office by making temporary arrangement; without giving any consideration in favour of the Applicant. xxx

Law is well settled that unless compelling reasons are there, a temporary hand should not be disengaged, while providing temporary engagement to another. Therefore, the Applicant, a retrenched temporary hand, should receive due consideration to discharge the duties of a

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temporary GDSBPM at Haripur Branch Post Office wherein the work is being managed by making temporary arrangement. In the aforesaid regard, the Applicant should represent to the Authorities/Respondents afresh giving all details of his past services/experience by the end of October, 2003 and in the event, the Department is continuing to manage the post of GDSBPM of Haripur BO a temporary hand, then the Respondents should give due consideration to the case of the Applicant at the earliest. M.A. is accordingly disposed of."

6. Applicant submitted representations on 06.10.2009 and ^{also.} ~~again~~ on 01.04.2003 ^{and 31.10.2003} seeking engagement as against certain vacancies. Not getting any favourable orders from the Respondents, he has approached this Tribunal again. He has drawn our attention to the fact that CAT/Ernakulam Bench has taken a view (in the case of G.S. Parbathi & Others in O.A. No.29/90) that weightage should be given to the experiences gathered by a candidate and that same view was taken by CAT/Chandigarh Bench in the case of Sher Singh V. Union of India (reported in 1997 (2) CAT/AISLJ 303).

7. Since it is the positive case of the Applicant that his representations are pending with the Respondents, without any ^{waste} ~~wast~~ of time, we dispose of the case by remitting this matter to the Respondents; who should consider the case of the Applicant (for providing him an engagement) keeping in mind that he (Applicant) gathered experiences and need give some weightage to his case for he had experiences in the

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matter and intimate him (Applicant) the result of such consideration within 120 days of receipt of a copy of this order.

8. With the above observations and directions the Original Application is disposed of at the admission stage itself. No costs.

9. Send copies of this order to the Applicant and the Respondents (along with copy of this ^{C.A.}~~order~~) by Registered Post. Free copies of this order be supplied to the Ld. Counsel appearing for both sides.

Kapit
MEMBER(A)

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12/03/10
VICE-CHAIRMAN