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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00315 of 2015

Date of Order : 28-06, 2017

CORAM
HON'BLE SHRI R.C.MISRA, MEMBER(A)

Yudhistir Naik aged about 52 years, S/o Shri Fakir Naik, permanent residence of Vill/PO Olhan Via Nirakarpur PS-Gadishagada District Puri at present GDS MD Olhan BO under the SSPOs Puri Division.

...Applicant

By the Advocate-Mr. T. Rath

- V E R S U S -

- 1- Union of India represented through its Secretary-cum-Director General (Posts), Dak Bhawan, Sansad Marg, New Delhi - 110 001.
- 2- Chief Post Master General, Odisha Circle, At/PO Bhubaneswar GPO 751001, District Khurda.
- 3- Senior Superintendent of Post Offices, Puri Division, At/PO/Dist. Puri - 752001.
- 4- Sub Divisional Inspector (Posts), Balugan Sub Division, AT/PO Balugaon, District Puri - 752 030.
- 5- Sri Diptiranjana Paikray, GDSBPM, Olhan BO, Via Nirakarpur SO District Puri - 752 019.

...Respondents

By the Advocate-Mr. B.P.Nayak

ORDER

R.C.MISRA, MEMBER(A):

The applicant, who is working as a GDSMD, Olhan BO, under the Senior Superintendent of Post Offices (SSPO), Puri Division, has approached this Tribunal making the following prayer :

"(i) Quash the order under Annexure A/5 and A/8 and nullify all consequential action taken by the official Respondents thereto.

(ii) Pass appropriate orders directing the respondents to absorb the applicant in the post of GDS BPM of Olhan BO.

(iii) Pass any other order/orders as deemed fit and proper."

2. The brief facts of the case are that applicant was appointed as GDSMD at Olhan BO through a regular process of selection on 17th May, 1986. Long after his regular appointment, by an order dated 11th July, 2003 issued by the SSPO, Puri Division, applicant was handed over additional charge of GDS BPM for same BO w.e.f. 11th June, 2003. The applicant started working with this additional charge also and, in fact, applicant is said to have purchased a landed property in that Village, as per the instructions of the SDIP, Balugaon and, submitted application for the post of GDS BPM Olhan BO to the SSPO, Puri Division along with the required documents. Subsequently also, he pursued the matter by sending

- reminders to the said authority. He made a representation on 10th June, 2014 to the SSPO, Puri Division and the SDIP, Balugaon Sub Division, for consideration of his case for permanent appointment as GDS BPM. While the representation was pending, the SDIP, Balugaon, transferred one Shri Dilip Ranjan Paikray, GDS BPM, Singipur SO to the post of GDS BPM, Olhan BO by an order dated 30th June, 2014. The said Shri Dilip Ranjan, has been arrayed as respondent No. 5 in this O.A. Applicant was aggrieved by this transfer of respondent No. 5 to the post of GDS BPM, which he was holding as, an additional charge and, made a representation on 31st July, 2014 to the Chief Post Master General, Odisha, vide Annex. A/6. He also approached this Tribunal earlier by filing OA No. 732 of 2014 which was disposed of at the admission stage by an order dated 16th October, 2014 (Annex.A/7) directing respondent No. 2 to consider his representation. The respondent No. 2, i.e. the Chief Post Master General, Odisha, rejected the representation vide order dated 23rd March, 2015 (Annex.A/8) which forms the subject of challenge in this O.A.

3. The main ground on which learned counsel for applicant has pleaded his case is that applicant has been working as GDS BPM, Olhan BO continuously from 11th July, 2003 and, there is no adverse remarks with regard to his working. The applicant also has procured many RPLI Policies in Olhan BO with a view to earn the Commission to the monthly cash creation and, in the event of posting of respondent No. 5, he will enjoy benefit of the hard-work done by him. The applicant has also purchased a landed property in the village in anticipation of being regularly allowed to perform this job. The respondent – authorities should have abolished the post of GDS MD and, allowed him to work as GDS BPM in order to avoid financial loss.

4. The respondents have filed a counter affidavit in which they have submitted that applicant was given charge of the post of BPM in addition to his work of GDS MD with admissible combined duty allowance. The applicant was managing the post of BPM as a temporary arrangement. However, he had provided a house for the post of BO. It is, however, denied by the respondents that there was any instruction issued to the applicant to purchase any land, nor was he given any assurance of absorption on a regular basis as GDS BPM. It is further submitted that respondent No.5 was transferred to Olhan BO as GDS BPM under the GDS (Conduct and Engagement) Rules, 2011, which provides that

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• a GDS could be transferred from one post to another, once in a life time under specific conditions. The request of said respondent No. 5 was considered on the ground of looking after his ailing parents and, therefore, his case of one time transfer was considered sympathetically by the authorities. The present applicant, however, does not come under the purview of limited transfer and the respondents also did not consider it feasible to combine the duties of GDS BPM and GDS MD, as a permanent measure, as there was a down-ward trend in the Post Office business. Thus, respondents have submitted that there was no legitimate ground on which, prayer of applicant in this O,A, could be considered.

5. In rejoinder filed by the applicant, a valid submission has been made. No rule in the Postal Department is there for making temporary arrangements for the post of GDS BPM for such a long period of about 11 years. The respondents would should have gone for a regular recruitment to the post of GDS BPM but, they have brought respondent No. 5 on this post on the basis of one time transfer which is not according to the Rules. The SDIP, Balugaon, had verbally instructed the applicant to purchase land in his name and, therefore, applicant had a legitimate expectation of being regularly absorbed in this post. Permanent residence in the post village is a pre condition for appointment as a GDS BPM. It is alleged by applicant that respondent No. 5 has not yet taken permanent residence in Olhan Village and, is attending office only during working hours, therefore, he should not have been considered, as eligible for being transferred to the said post.

6. Having perused the records, I have heard learned counsel for both the parties. There is no doubt that applicant has raised a valid point that a Department should not take resort to temporary arrangements for such a long period. The continuance of any GDS employee for a long time with such combination of duties, gives rise to certain expectations. But, the departmental authorities decided to bring respondent No. 5 on limited transfer basis, to Olhan BO as GDS BPM by considering his prayer on personal grounds. Therefore, even though, applicant had worked from the year 2003 onwards in his additional charge, he was not allowed to continue any further and respondent No. 5 took over the charge of the post of GDS BPM. The issue is therefore, whether applicant has any legal right to be enforced by the orders of this Tribunal that he must be considered for regular absorption on the ground of his long working as

■ GDS BPM in additional charge. The answer to this question clearly emerges as 'No'. Even if, the departmental authorities have allowed him to continue to do the combined duties for a long period of time, this does not as such, give rise to any entitlement for regular absorption. In the impugned order, respondent No. 2 has stated that combination of duty of BPM and GDS MD of the said BO was not feasible. The respondents initiated action for filling of the post by recruitment of outsiders by initiating a selection process. Immediately after making the statement, the respondent No. 2 in the speaking order dated 23rd May, 2015 has mentioned that respondent No. 5 was transferred under the limited transfer facility basis. Therefore, the order is not clear as to what action has been taken for filling of the post by recruitment of outsiders by observing selection process. In spite of this incongruity in the speaking order under challenge, I cannot find any illegality in this order since the respondents are within their power to take a decision to allow respondent No. 5 under limited transfer facility as GDS BPM of Olhan BO. However, as per their own submission, the respondent authorities should go for a regular recruitment as per the procedure, to fill-up this post as soon as it is practicable.

7. As per the discussions above, it is quite evident that applicant has no enforceable right with regard to his prayer of regular absorption as GDS BPM of Olhan BO and, this Tribunal would not like to interfere in matters which are strictly within the administrative domain of the respondent- authorities. Unless an order is infected with the virus of illegality or impropriety, such order(s) cannot be interfered with by the Tribunal. The respondents, however, should be transparent and fair in the matter of postings and a regular selection process being initiated would go a long way in mitigating the grievance of not only the applicant but also of all the stake holders. With this observation and direction, however, I find the application to be devoid of merit and, therefore, the same is dismissed with no order as to costs.



(R.C.Misra)
Member (A)