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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.759 OF 2012

Cuttack this the 15th day of March, 2016

Prafulla Ku.Kar...Applicant

-VERSUS-

Union of India & Ors...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *no*
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? *no*


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.759 OF 2012

Cuttack this the 15th day of March, 2016

CORAM:

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

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

Prafulla Ku.Kar
Aged about 33 years
S/o.Gouranga Charan Kar
At/PO-Gulnagar
Via-Thakurpatna
PS/Dist-Kendrapara

...Applicant

By the Advocate(s)-Mr.T.K.Mandal

-VERSUS-

Union of India represented through:

1. The Director General of Posts
Dak Bhawan
Sansad Marg
New Delhi-110 116
2. Chief Post Master General
Odisha Circle
At/PO-Bhubaneswar
Dist-Khurda
3. Superintendent of Post Offices
Cuttack North Division
Cuttack
At/PO/Dist-Cuttack
4. Assistant Superintendent of Posts
Kendrapara Sub Division
At/PO/Dist-Kendrapara-754 213

...Respondents

By the Advocate(s)-Mr.S.Behera



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ORDER**R.C.MISRA, MEMBER(A):**

In this Original Application under Section 19 of the A.T.Act, applicant has sought for the following relief.

- i) Direction(s) order(s) may be issued to the respondents to provide appointment to the applicant taking into consideration of his past service rendered as substitute for the period from 11.5.2010 to 16.11.2010 as GDSBPM at Gulnagar BO under Thakurpatna SO.
- ii) Direction(s)/Order(s) may be issued to the respondent No.2 to make payment of his remuneration(TRCA) applicable to GDSBPM within a stipulated time fixed by this Hon'ble Tribunal.

2. It is the case of the applicant that he had been appointed as Substitute GDSBPM of Gulnagar BO under Thakurpatna SO in pursuance of leave sanction order dated 9.9.2010 issued by respondent no.2 in favour of the original incumbent GDSBPM, Shri Gouranga Ch.Kar and had accordingly worked from 11.5.2010 to 16.11.2010, which is more than 180 days. Thereafter, he submitted a representation dated 16.3.2011 to res.no.2 for payment of remuneration(TRCA) for the period he had discharged his duties as Substitute GDSBPM, Gulnagar BO, inter alia, with a request for consideration of his case for future appointment under his control. Since his representation did not yield any response, he moved this Tribunal in O.A.No.168 of 2011. This Tribunal, vide order dated 29.4.2011, disposed of the said O.A. as under.



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"Mr.mohapatra, Ld.Sr.Standing Counsel was earlier directed to obtain instructions regarding payment of salary of the applicant for the period from 11.05.2010 to 16.11.2010. Shri Mohapatra submits that for the period from 11.05.2010 to 7.8.2010 payment has already been released and for the subsequent period decision has been taken to release the payment and the process of payment will take little more time. For the earlier i.e., 11.5.2010 to 7.8.2010, the applicant needs to approach the concerned postal authorities to receive the payments.

As regards appointment of the applicant as a substitute, it is seen that representation as at Annexure-3 dated 16.03.2011 filed by the applicant with the Superintendent of Post Offices, Cuttack North Division, i.e., Respondent No.2 is still pending for disposal. Hence, as agreed to by the Ld. Counsel for both the sides, without going into the merits of the case, Respondent No.2 is hereby directed to consider the representation of the applicant and take a decision as per rules within a period of two months from the date of receipt of a copy of this order.

With the above observation and direction, the O.A. stands disposed of".

3. In compliance with the above direction, respondent no.2 vide order dated 22.11.2011(A/5) disposed of the representation of the applicant. Aggrieved with the decision taken therein, applicant has moved this Tribunal in the present O.A., seeking the relief as mentioned above.

4. Applicant has contended that by virtue of A/5 dated 22.1.2011, respondent no.2 partly allowed the claim made by him. Whereas res.no.2 made payment of TRCA for the period from ^{5.11} ~~11.5~~ 2010 to 7.8.2010, he did not make payment for the period from ^{5.11} ~~8.8~~ 2010 to 16.11.2010 by stating that there is no



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record available in the office and that the original incumbent never applied for leave providing applicant as his substitute nor there is any leave application to this effect from the original incumbent Shri G.C.Kar(GDSBPM), Gulnagar BO. It is also contended that respondent no.2 did not accede to his request for future appointment in GDS post on the ground that despite applicant's possessing the required qualification and having worked as substitute of the regular incumbent, there is no such provisions for giving him an appointment.

5. Resisting the claim of the applicant, respondents have filed a counter-reply. It has been submitted that applicant worked as substitute of the regular incumbent of GDSBPM, Gulnagar BO for the period from 11.05.2010 to 04.11.2010 in different spells as the original incumbent proceeded on leave. Leave for the maximum permissible period of 180 days taken together in different spells was sanctioned by the res.no.2 in favour of the regular incumbent vide office memo dated ✓ 22.12.2009, 09.09.2010/21.09.2010, 12.5.2010. Approval of the appropriate authority was sought to grant leave beyond 180 days and the competent authority accorded the approval vide ✓ communication dated 18.11.2011. In pursuance of the said approval, leave without allowance was granted in favour of Sri Gouranga Ch.Kar, the original incumbent GDSBPM, Gulnagar BO for the period from 11.08.2010 to 04.11.2010 on the arrangement that applicant worked as substitute. As regards

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grant of leave for the period from 5.11.2010 to 16.11.2010, there is no record to the effect that the original incumbent of GDSBPM, Gulnagar BO, Shri Gouranga Ch.Kar ever applied for leave providing the applicant as his substitute. Neither there is any application to this effect from Shri Gouranga Ch.Kar nor there is any relieving/assuming charge reports indicating the official proceeded on leave. Therefore, according to respondents leave for the period from 6.11.2010 to 16.11.2010 is not sanctioned.

6. As regards appointment of the applicant, it has been submitted by the respondents that there is no provision to accede to the request of the applicant for he having worked as substitute of the regular incumbent of GDSBPM for quite some time. Applicant had worked as substitute only with the responsibility of the original GDS as per DG(P) instruction No.2 below Rule-7 of GDS (Conduct and Employment)Rule-2001. The original GDS is free to engage any eligible person having the required qualification and satisfying the age criteria to work as his substitute and the department has no role except to approve the substitute.

7. With these submissions, respondents have prayed that the O.A. being devoid of merit is liable to be dismissed.

8. We have heard the learned counsel for both the sides. We have also gone through the rejoinder to the counter filed by the applicant and the written notes of submissions.



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9. Before coming to decide the matter on merit, we would like to note that the relief sought by the applicant in this O.A. is hit by Rule - 10 of CAT(Procedure) Rules, 1987 which deals with ***Plural remedies***. It has been provided therein that "***an application shall be based upon a single cause of action and may seek one or more reliefs, provided that they are consequential to one another***".

10. As quoted above, reliefs sought by the applicant are not consequential to one another. Whereas the first relief sought by him is for direction to be issued to the respondents to provide him appointment by taking into consideration of his past service rendered as substitute for the period from 11.5.2010 to 16.11.2010 as GDSBPM at Gulnagar BO under Thakurpatna SO, the other relief is for direction to respondent No.2 to make payment of his remuneration(TRCA) applicable to GDSBPM within a stipulated time fixed by this Hon'ble Tribunal. Therefore, both the reliefs being independent of the other are not consequential to one another. In view of this, prima facie, two different and distinct relief sought in this O.A. is not justiciable.

11. Apart from the above, the second relief sought by the applicant for direction to respondent no.2 to make payment of his remuneration(TRCA) applicable to GDSBPM within a stipulated time fixed by this Tribunal is not borne on record. There is no such order produced by the applicant wherein the



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Tribunal had directed respondent no.2 to make payment of his remuneration(TRCA) applicable to GDSBPM within a stipulated time. Therefore, this part of relief sought by the applicant is spurious.


12. It is the case of the applicant that he had worked as substitute for the period from 11.5.2010 to 16.11.2010 in pursuance of leave sanction order dated 9.9.2010(A/2). This order is dated 9.9.2010/21.9.2010 in which Sri Gouranga Ch.Kar, GDSBPM, Gulnagar BO under Thakurpatna SO have been granted leave without allowance from 11.5.2010 to 7.8.2010. While disposing of O.A.No.168 of 2011, this Tribunal had already recorded that payment of TRCA for the period from 11.05.2010 to 7.8.2010 had already been released. Therefore, the claim of the applicant that in pursuance of leave sanction order dated 9.9.2010/21.9.2010(A/2), he had worked as substitute for the period from 11.5.2010 to 16.11.2010 is far from truth. However, applicant has not produced any document showing that he had ever worked from 11.5.2010 to 16.11.2010. Since the applicant has already been paid his TRCA for the period from 11.5.2010 to 7.8.2010 for which period he had indisputably worked as Substitute, his claim for payment of TRCA for the period from 8.8.2010 to 16.11.2010 being not substantiated by any material document, we do not feel inclined to issue any direction to the respondents in this regard.




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13. As regards the relief sought by the applicant to provide him employment on the ground that he had worked as Substitute for quite some time, since applicant has not been able to establish his claim in this regard by producing any rule and/or instruction in that behalf, applicant is not entitled to any relief in this regard.

For the reasons discussed above, the O.A. being devoid of merit is dismissed. No costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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