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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.879 of 2012
Cuttack this the 21st February, 2014
CORAM

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

Sri Chandrakanta Behera
Aged about 18 years
S/o.Sri Lambodar Behera
Resident of Vill/PO-Ganapaju,
Via-Khajuriapada
District-Boudha
Odisha-762 012

...Applicant

By the Advocate(s)-M/s.P.K.Padhi

-VERSUS-

Union of India represented through

1. Secretary cum Director General of Posts,
Dak Bhawan, Sansad Marg
New Delhi-110 116
2. Chief Post Master General, Odisha Circle
At/PO-Bhubaneswar
Dist-Khurda-751 001
3. Superintendnet of Post Offices
Phulbani Division
At/PO-Phulbani
Dist-Kandhamal-762 001

...Respondents

By the Advocate(s)-Ms.S.Mohapatra

ORDER

R.C.MISRA, MEMBER(A):

Applicant has approached this Tribunal with a prayer for direction to be issued to Respondents, who are the authorities of the Department of Posts to consider his candidature for the post of GDSBPM, Gandapaju Branch Office along



with other candidates who have applied within the stipulated date, i.e., 19.10.2012.

2. The short facts of the case are that Respondent No.3, Superintendent of Post Offices, Phulbani Division issued an advertisement vide notification dated 19.9.2012 in order to fill up the post of GDSBPM, Gandapaju in account with Khajuripada SO. The last date of receipt of application in this regard was fixed to 19.10.2012. This post was meant for OC/UR/Gen Caste community followed by OBC, ST & SC in case of non- availability of OC candidates. Applicant is an unemployed youth of village Gandapaju and as soon as he came to know that the post of GDSBPM of his own village is to be filled up, he applied for a caste certificate from the Tahasildar, Harbhanga and obtained the same on 18.10.2012. He went to the office of Respondent No.3, i.e., Superintendent of Post Offices, Phulbani Division on 19.10.2012 along with his application and required documents and requested Res.No.3 to accept his application in the receipt counter of Division Office. His application was not accepted and therefore, he sent the same by Registered Post from Phulbani H.O., which is situated in the same office campus of the SPOs' office, Phulbani. His efforts to deliver his application on 19.10.2012 were unsuccessful since Res.No.3 refused to receive the letter by window delivery on the same day. Subsequently, he went to enquire about the fate of his application and was told that it has not been taken into consideration since it was not received within the date of 19.10.2012. His case is that 20th and 21st October, 2012 happened to be Saturday and Sunday. So, the



non-consideration of his application, because it was not received on 19.20.2012 is arbitrary decision of the authorities. His further case is that he being from the OBC community needed to have an OBC certificate and in the process of getting the OBC certificate, there was some delay. This delay should not stand in the way of consideration of his application. He is a meritorious candidate and it will be a great difficulty for him if this employment opportunity is closed for him on account of delay in filing his application for the post in question. Therefore, his prayer before the Tribunal is to issue direction to the Respondents to consider his candidate along with other candidates who had applied within the stipulated period.

3. Respondents by filing their counter affidavit in this case have submitted that in order to fill up the post of GDSBPM, Gandapaju in account with Khajuripada SO which fell vacant due to the death of the regular incumbent, an advertisement was issued to the District Employment Officer, Boudh on 19.9.2012 with a request to sponsor names of the candidates within thirty days of the requisition. Simultaneously, local open notification was also issued vide notification dated 19.9.2012 inviting applications from the interested candidates fixing last date of receipt of applications as 19.10.2012. It was stipulated that the applications should be sent by Regd.Post with A.D. so as to reach on or before 19.10.2012 and that any application received after due date will be rejected. Further, it was indicated therein that delay in transmission by post will not be accepted as a reason for late receipt of application. In response to this



notification altogether eight candidates responded and applied for the post and the present applicant sent his application dated 18.10.2012 through Phulbani Head Office Registered Letter dated 19.10.2012 by 12.43 hours, which was received on 23.12.2012 since 20.10.2012, 21.10.2012 and 22.10.2012 were closed because of Saturday, Sunday and Holiday. Therefore, as per the conditions of the notification, applicant's application did not reach them before the stipulated date. According to notification, the post was offered to candidates belonging unreserved community and in case candidates of the said community are not available, the vacancy would be offered to candidates belonging to other community in the following order.

- i) OBC
- ii) ST
- iii) SC

4. Considering this, Respondent No.3 is not concerned as to whether applicant applied for his caste certificate from the Tahasildar, Harbhanga and the date on which he received the same. There was no condition in the open notification to receive application by hand; instead, there was instruction^s to send the same by Registered Post only and therefore, the Respondents have denied that non receipt of application by hand can be termed as genuine reason for the case made out by the applicant and submitted that there was no harassment caused to the applicant. According to Respondents since application of the applicant was received on 23.10.2012, i.e., after the stipulated date on 19.10.2012, rightly his application was not taken into consideration. Respondent No.3 has to consider the



application according to terms and conditions as notified under Annexure-R/1. Further, the post was meant for UR and therefore, the applicant did have the option to apply without a caste certificate within the stipulated time. On the basis of the facts which have been detailed in the counter affidavit, Respondents have urged that the case made out by the applicant is without any foundation.

5. Facts of this case are clear and undisputed and it is admitted that although the last date for receipt of application was 19.10.2012, application of the applicant was received only on 23.10.2012 by the authorities. A perusal of the notification dated 19.10.2012 which is at Annexure-R/1 reveals that applications should be addressed to the undersigned by designation and sent by Regd.Post with A.D. so as to reach his office on or before 19.10.2012 positively. Any application received after the stipulated date will be rejected and delay in transmission by post will not be accepted as a reason for late receipt of application. Applicant's only case is that his efforts to personally handover the application met with failure and the delay in sending the application was because he obtained OBC certificate from the Tahasildar, Harbhanga which took some time. Both these grounds are not sustainable because, it is found in the notification that the application has to be sent by Regd.Post with A.D. Whatever be the difficulty experienced by the applicant, the facts indicate that the Respondents have acted strictly under the terms and conditions of the employment notification. Deviation from the said terms and conditions to consider any specific difficulty of any particular candidate would lead to an

arbitrary situation whereby many other cases may be agitated before the authorities. In the matter of public employment, Respondents are duty bound to act strictly within the parameter of the notification in order to eliminate the chances of favouritism or discrimination. The prayer of the applicant is that his case should be considered along with other candidates who have applied within the stipulated time of 19.10.2012. On the face of it, it is an unsustainable prayer and that it will be prejudicial to the interest of the candidates who have duly followed the terms of notification and whose applications have been received within the stipulated time. Having failed to submit his application under the terms and conditions of notification, applicant should not make the prayer that his case should be treated on equal footing with other candidates who have shown their due expedition in this regard.

For the reasons discussed above, this O.A. is sans merit and accordingly, the same is dismissed, leaving the parties to bear their own costs.

(R.C.MISRA) 
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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