

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 608 of 2013
Cuttack the 6th day of September, 2013

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

.....
Purna Chandra Sahu, aged about 32 years, Son of Sibaram Sahu, resident of Nua Sahi, Po.Gosaninuagaon, Berhampur, Dist. Ganjam.

...Applicants
(Advocates: M/s-B.Mohapatra, S.K.Sahoo)

VERSUS

1. The Director, Central Board for Workers Education, Ministry of Labour and Employment, Government of India, North Ambazari Road, Nagpur, Maharashtra.
2. Regional Director, Central Board for Workers Education, Bhubaneswar, At/Po.Bhubaneswar, Dist. Khurda.
3. Regional Director, Central Board for Workers Education, Main Road. Panpost, Rourkela, Dist. Sundergarh.
4. Regional Director, Central Board for Workers Education, Berhampur. At/Po.Berhampur, Dist. Ganjam.

... Respondents
(Advocate: Mr. L.Jena)

ORDER

oral

A.K.PATNAIK, MEMBER(J)

In this Original Application under Section 19 of the A.T.Act, 1985, applicant has prayed for direction to Respondent No.1 to issue appropriate order/instruction to fill up the vacant posts of LDC in the concerned Regional

Dee

S

Directorates on regular basis, with a further direction to consider the case of the applicant for the said post, within a time limit that may be stipulated by this Tribunal.

2. Shortly stated the case of the applicant is that while he was working as LDC in the Regional Director, CBWE, Berhampur, his services were terminated. Assailing the order of termination, the applicant moved this Tribunal in O.A.No. 506/2010, which was dismissed vide order dated 22.11.2010. Aggrieved with the above order of the Tribunal, the applicant moved the Hon'ble High Court of Orissa in W.P.(C) No.11273/2011, which was disposed vide order dated 3.5.2011 with a direction that applicant's case may be considered for tenure appointment as and when vacancy arises. While the matter stood thus, there being an advertisement in the daily newspaper dated 11.6.2011 for filling up the post of LDC, the applicant submitted his application for the said post. However, the said recruitment process was stalled as per the instruction of the Director, CBWE. Aggrieved with the inaction of the Respondents, the applicant moved the Hon'ble High Court of Orissa in W.P.(C) No.1260/12, which was disposed of vide order dated 1.2.2012 with an observation that there was no reason to entertain the writ application at that stage since the Respondent had intimated the applicant that his case shall be considered as and when vacancy would arise. Since no step was taken, the applicant submitted a representation dated 6.2.2012 in response to which the authorities vide letter dated 9.4.2012 communicated that the applicant may apply for the post for consideration as and when regular vacancy arises. In

Ales

6

pursuance of this letter, the applicant made a representation to the Director, CBWE on 9.5.2012 with a request to issue appropriate instruction/sanction to the concerned Regional Director for his engagement, at least on ad hoc /part time basis and simultaneously also made a representation dated 14.5.2012 to the Regional Director, CEWE, Bhubaneswar. While the matter stood thus, the Regional Director, CEWE, Rourkela returned the application fee deposited by the applicant on the ground that the process of recruitment of LDC had been stopped for the time being as per the instruction received from the Head Office.

3. It is the case of the applicant that the Regional Director, CBWE, Bhubaneswar who was also in charge of the office of the Regional Director, Berhampur, by a letter dated 4.8.2012 intimated the Director, CBWE, regarding acute shortage of staff, i.e., LDCUDC, Peon etc. as well as the difficulties faced by the solitary LDC at Berhampur. The Regional Director also requested the Director to arrange the posting of some staff at the earliest for smooth functioning of the said Regional Directorate. Hence, the applicant has moved this Tribunal seeking relief as referred to above.

4. We have heard Shri B.Mohapatra, learned counsel for the applicant and Shri L.Jena, learned Addl.Central Govt. Standing Counsel for the Respondents on the question of admission of this O.A.

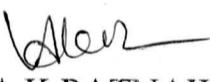
5. At the outset, it is to be noted that the Hon'ble High Court of Orissa while disposing of W.P.(C) No. W.P.(C) No.11273/2011 vide order dated 3.5.2011 directed that applicant's case may be considered for tenure appointment as and

Aler

Y

when vacancy arises. If according to applicant notwithstanding existence of vacancy in the cadre of LDC the Respondents have not complied with the direction of the Hon'ble High Court of Orissa, he should take recourse to law as deemed fit and proper. However, the prayer of the applicant for direction to Respondent No.1 to issue appropriate order/instruction to fill up the vacant posts of LDC in the concerned Regional Directorates on regular basis, with a further direction to consider the case of the applicant for the said post, within a time limit that may be stipulated by this Tribunal, in our considered view, is misconceived inasmuch as the Tribunal cannot ~~enforce~~ the Respondent-Department to fill up posts, which is within their prerogative. Filling up of vacancies is subject to hierarchical need and is in exigencies of public service. In the circumstances, we are not inclined to admit this O.A. which is accordingly rejected at the threshold. No costs.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judl.)