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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 260/000037/2014
Cuttack, this the 5th day of February, 2014

CORAM
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

.....
Durga Prasad Patra, aged about 33 years, S/o. SRI Bijay Kumar Patra, At/Po. Kortala, Via- Debidola, Dist. Jagatsinghpur now working as GDS MD/MC of Sompur-Benahar BO S.O. now I/C BPM Nabapatna BO in account with Mandasahi SO.

....Applicant
(Legal Practitioner:-M/s.P.K.Padhi, J.Mishra)

Versus

UNION OF INDIA REPRESENTED THROUGH-

1. The Secretary Cum Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. The Chief Postmaster General, Odisha Circle, At/Po.Bhubaneswar, Dist. Khurda-751 001.
3. Superintendent of Post Offices, Cuttack South Division, At-P.K.Parija Marg, Po.Cuttack GPO, Dist. Cuttack-753 001.

.....Respondents
(Legal practitioner: Mr. S. Barik)

O R D E R

(ORAL)

A.K.PATNAIK, MEMBER (JUDICIAL):

Copy of this OA has been served on Mr. S. Barik, Learned additional CGSC for the Union of India who accepts notice for the Respondents in this OA. Registry is directed to serve notice, in terms of sub rule 4 of Rule 11 of the CAT (Procedure) Rules, 1987 for onward transmission. Heard Mr. P.K.Padhi, Learned Counsel for the Applicant and Mr. S. Barik, Learned Additional CGSC appearing for the Respondents and perused the records.

2. The case of the applicant, in brief, is that he was appointed as GDSMC of Sompur-Benahar B.O. w.e.f. December, 2002 and working as such in the same post although he has been deputed to work in different posts. When the post of GDSBPM of Nabapatna BO fell vacant, on the direction of the competent authority he has been discharging the duty of GDSBPM of Nabapatna BO since 10.10.2007. It is the positive case of the

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applicant that he is otherwise eligible/qualified to hold the said post of BPM on regular basis and, therefore submitted representation to Respondent No.2 on 27.05.2013 with copy to Respondent No.3 praying for his transfer and posting to the post of GDSBPM, Nabapatna H.O. in account with Mandasahi S.O. of Jagatsinghpur H.O. under Cuttack South Division. But according to the Applicant, without taking/communicating any decision on the said representation, Respondent No.3 issued notification inviting application from general public for regular appointment to the said post of GDSBPM, Nabapatana in account with Manda Sahi SO on 30.12.2013 fixing last date of receipt of application to 29.1.2014.

3. Mr. Padhi submits that the applicant has been discharging his duty in the said post without any demur. He has gained experience which is also useful in discharging duty more effectively. The Applicant is also otherwise eligible/entitled to hold the said post on regular basis. In this connection Mr. Padhi has placed reliance on the decision of the Hon'ble High Court of Orissa in the case of **Rajanikanta Pattanayak and others Vrs- R.S.Bedi and another** reported in 2004 (I) OLR 447. Hence it has been contended that in view of the urgency he has approached this Tribunal in the instant OA in which he has prayed to quash the notification and direct the Respondents to regularize the applicant in the post of GDSBPM of Nabapatna BO in account with Mandasahi SO.

On the other hand Mr. Barik submits that in absence of regular BPM the applicant whose substantive appointment is the post of GDS MC of Sompur-Benahar B.O was kept in charge of BPM Nabapatna BO. There is no provision for allowing a GDS MC to be regularized in the post of BPM

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nor continuance of the applicant in the post of Incharge/BPM will confer any right on him to claim regular appointment. However, Mr. Barik has fairly submitted that he has no immediate instruction whether any such representation was preferred by the applicant and if so the status thereof.

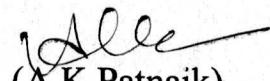
4. Law is well settled that state has to see that legitimate aspiration of an employee is not guillotined and a situation is not created where hopes end in despair. Hope for everyone is glorious precious and a model employer should not convert it to be deceitful and treacherous. Working experience is always beneficial for the employee as well as employer. The Hon'ble High Court of Orissa taking into consideration the service rendered by the applicant, (as in the instant case), in the case of **Rajanikanta Pattanayak (supra)** directed to regularize the petitioners therein in the existing or future vacancies.

5. Be that as it may, I do not like to express any opinion on the merit of the matter, since it is the positive case of the Applicant that no reply has been received from the Respondent No.2 on his representation dated 27.5.2013 till date, this OA is disposed of with direction to Respondent No.2 to consider the representation stated to have been made on 27.5.2013, if it is received and is still pending (keeping in mind the facts and law stated above), and communicate the decision thereon in a well reasoned order to the applicant on or before 3rd March, 2014. In view of the above, Respondent No.3 is directed not to proceed with the selection in pursuance of the notification dated 30.12.2013 and not to interfere in the continuance of the applicant in the post in question till 10th March, 2014.



6. In the result, with the aforesaid observation and direction this OA stands disposed of at this admission stage. There shall be no order as to costs.

7. As prayed for copy of this order be sent to Respondent Nos.2 & 3 by speed post at the cost of the applicant for which Learned Counsel for the applicant undertakes to furnish the postal requisite by 11.02.2014.


(A.K.Patnaik)
Member (Judicial)