

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 260/000038/2014
Cuttack, this the 5th day of February, 2014

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

.....
Jairam Mallik, aged about 57 years, S/o. Late Kangali Mallik, At/Po. Kumbhiragadia, Via- Dangadi, Dist. Jajpur, presently working as GDSBPM, Kumbhiragadia B.O., At/PO- Kumbhiragadia, Via-Dangadi, Dist-Jajpur.

....Applicant
(Legal Practitioner:-M/s. D.P.Dhalsamant, N.M.Rout)

Versus

UNION OF INDIA REPRESENTED THROUGH-

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Odisha Circle, At/Po.Bhubaneswar, Dist. Khurda-751 001.
3. Superintendent of Post Offices, Cuttack North Division, At/PO/Dist-Cuttack-753 001.
4. Asst. Superintendent of Post Offices, Jajpur Sub-Division, At/PO/Dist-Jajpur, 755001.

.....Respondents

(Legal practitioner: Mr. S.B.Jena)

O R D E R

(ORAL)

A.K.PATNAIK, MEMBER (JUDICIAL):

Copy of this OA has been served on Mr. S.B.Jena, 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. D.P.Dhalsamant, Learned Counsel for the Applicant and Mr. S.B.Jena, Learned Additional CGSC appearing for the Respondents and perused the records.

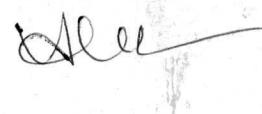
2. The case of the applicant, in brief, is that he is a regular appointee of the post of EDDA of Kumbhiragadia, BO in account with Dangadi S.O. When the post of GDSBPM of Kumbhiragadia BO fell vacant, on the direction of the competent authority he has been discharging the duty of GDSBPM of Kumbhiragadia BO since 01.02.2012. It is the positive case

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of the applicant that he is otherwise eligible/qualified to hold the said post of BPM on regular basis and, therefore submitted representation to Respondent No.3 on 20.03.2013 praying for his regular appointment to the said post. 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, Kumbhiragadia BO on 30.12.2013 fixing last date of receipt of application to 28.1.2014.

3. Mr. Dhalsamant 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. Dhalsamant 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 post/appoint the applicant in the post of GDSBPM of Kumbhiragadia BO.

On the other hand Mr. Jena submits that in absence of regular BPM the applicant whose substantive appointment is to the post of GDS MD of Kumbhiragadia BO was kept in charge of BPM Kumbhiragadia BO. There is no provision for allowing a GDS MD to be regularized in the post of BPM nor continuance of the applicant in the post of Incharge/BPM will confer any right on him to claim regular appointment. However, Mr. Jena



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.

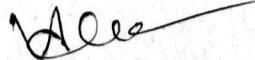
5. Be that as it may, I do not like to express any opinion on the merit of the matter, since it is the positive case of the Applicant that having received no reply from the Respondent No. 3 on his representation dated 20.03.2013, he has made another representation to Respondent No. 3 on 20.01.2014 but he has not received any reply thereon also till date, this OA is disposed of with direction to Respondent No. 3 to consider the representation stated to have been made on 20.01.2014, 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 also 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 No. 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)