

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. (P.A 1257 of 1997

Date of Order: 23.11.2004

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member  
Hon'ble Mr. M.K. Misra, Administrative Member

RAM KRISHNA MONDAL

VS.

UNION OF INDIA (DEPARTMENT OF POSTS)

For the applicant : Mr. B. Chatterjee/ Dr.Ms. S.  
Sinha, Counsel

For the respondents : Mr. B.K. Chatterjee, Counsel.

O R D E R (ORAL)

Mr. Mukesh Kumar Gupta, JM:

The applicant, belongs to SC community, in the present application, seeks direction to respondents to appoint him to the post of Extra Departmental Mail Carrier, Purba, Duli BO, as well as grant temporary status, as he had completed 240 days from 16.10.95.

2. It is contended that the aforesaid post is still vacant and nobody else has been appointed. The applicant was appointed vide letter dated 16.10.95 at the rate of Rs.10/- only per working day till relaxation case of Anand Kumar Mondal, ex-EDMC was finalised. The said rate was increased to Rs.20/- vide communication dated 13.11.95. The applicant worked in the said post till May 1997 without any break. Since the applicant had acquired sufficient experience in the said post, he submitted representation dated 22.9.97 to consider his case for absorption, which remained unconsidered. It was further contended that the said post was earlier manned by SC candidate and the Sub Division Inspector of Posts was not authorised to change the category of post, particularly in the matter of reservation, to ST category.

3. The respondents contested the aforesaid claim and raised the plea of res-judicata. It was further stated that the widow of deceased Anand Mondal had applied for the applicant's appointment herein being her grand son in relaxation of normal rules, which request was rejected vide communication dated 24.4.96. The said communication was impugned in OA 479/ 1997 and the same was dismissed for non-prosecution vide order dated 18.9.98. On merits, it was contended that there exists no provision for absorbing the persons like the applicant, who was engaged on purely provisional basis. Further, there is no provision in the Rules to give weightage to any person, who acquired little knowledge in the department like in the present case.

4. The applicant by submitting rejoinder disputed the contention raised by the respondents, while reiterating the submissions made in the OA.

5. We heard learned counsel for the parties. No rule has been brought to our notice whereby the relaxation can be granted in favour of person like the applicant either in terms of weightage or relaxation of rules. It is not disputed that the applicant earlier had filed OA No. 479/ 1997, seeking direction to respondents to grant him the weightage for the experience gained as provisional appointee as well as to appoint him as EDMC in relaxation of normal rules. Once an earlier application was filed precisely for the same relief as in the present case and the same having been dismissed for non-prosecution or otherwise cannot be agitated in a subsequent application. We do not find any difference in the earlier OA No. 479/ 1997 & the present OA.

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