

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. Nos. 260/0018/16 & 34 OF 2018
Cuttack, this the 23rd day of March, 2018

CORAM
HON'BLE MR. S. K. PATTNAIK, MEMBER(J)
HON'BLE DR. M. SARANGI, MEMBER (A)

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IN O. A. No. 260/0018 OF 2016

Sri Digambar Behera, aged about 45 years, S/o-Sri Sankirtan Behera, Vil/PO-Nunmath, Via-Kesinga, Dist-Kalahandi now working as GDSMD-cum-I/C BPM Nunmath B.O.
...Applicant
(By the Advocate-M/s. P.R.J. Dash, M.P.J. Ray)

-VERSUS-

Union of India Represented through :

1. The Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110116.
2. Post Master General, Berhampur Region, At/PO-Berhampur, Dist-Ganjam-760001.
3. Superintendent of Post Offices, Kalahandi Division, At/PO-Bhawanipatna, Dist-Kalahandi-766001.
4. Chief Post Master General, General, Odisha Circle, At/PO-Bhubaneswar, Dist-Khurda-751001.
5. Inspector of Posts, Casinga Sub-Division, At/PO-Kesinga, Dist-Kalahandi-766012.
6. Sri Sudhir Chandra Padhi, GDS MD Kasrupada B.O., At/PO-Kasrupada, Dist-Kalahandi.

...Respondents

(By the Advocate- Mr. A. Pradhan)

IN O. A. No. 260/0034 OF 2018

Debasish Panda, aged about 29 years, S/o. Sri Rabi Narayan Panda, At/PO-Aruha, Via-Haridaspur, P.S-Dharmasala, Dist-Jajpur.

...Applicant

(By the Advocate-M/s. J. Pattnaik, R. K. Sahu, S. Debata)

-VERSUS-

Union of India Represented through :

1. Secretary, Ministry of Communication(Department of Posts), At-Sanchar Bhawan, New delhi-110001.
2. Chief Post Master General, Odisha, At-PMG Square, Bhubaneswar, District-Khurda-751001, Odisha.

3. Superintendent of Post Offices, Kalahandi Division, Bhawanipatna, Dist-Kalahandi-766001, Odisha.

...Respondents

(By the Advocate- Mr. C. M. Singh)

ORDER

S. K. PATTNAIK, MEMBER (J):

A. One Digambar Behera applicant of O.A. No.18/2016 has prayed for quashing of the notification dated 15.04.2015 (Annexure-A/3) by which the Chief Post Master General, Odisha Circle, Bhubaneswar, invited applications from eligible persons for filling up of vacancies of Gramin Dak Sebaks in various postal Divisions in Orissa Postal Circle.

The applicant also seeks quashing of notification dated 21.04.2015 (Annexure-A/4) by which the Superintendent of Post Offices Kahalandi Division has made Wide Publicity of Notification for recruitment for the post of Gramin Dak Sevak (GDS) in Kalahandi Postal Division including Sanchergaon GDS BPM post of the BO at Sl. No.13, which post is held by him. The applicant also seeks quashing of the order dated 16.12.2015 (Annexure-A/7) by which his representation to be absorbed as GDSBPM Nunmath BO in account with Kisinga SO has been rejected. The applicant has challenged the order dated 14.01.2016 (Annexure(A/8) by which the Inspector of Posts, Kisinga Sub Division has passed an order that Sri Digambar Behera, GDSMD Nunmath BO will perform delivery duty/work in the said office, and one Sudhir Chandra Padhi was directed to take charge of BPM, Nunmath BO from Sri Digambar Behera, GDSMD (now officiating as BPM of this BO) Nunmath BO.

B. One Debasish Panda applicant of O.A. No.34/2018 has prayed for a direction to the Respondents to issue the order of appointment and to take a decision on the representation of the applicant as per Annexure-A/6. The grievance of Mr. D. Panda is that even though he was previously selected for the GDSBPM Nunmath BO the appointment is not made in his favour. Alternatively applicant prays that if it is not

possible he may be absorbed somewhere else other than the post he was selected. Since both these O.As are interlinked and centres round the same post are disposed of by a common order.

2. There is no dispute about the fact that on 12.11.2015 the Superintendent of Post Offices, Kalahandi Division (Annexure-A/1) in O.A. No.34/18 issued a letter to Sri Debasis Panda intimating him that he has been provisionally selected for engagement for the post of GDSBPM Nunmath BO in account with Kelsinga SO under Kalahandi Postal Division subject to following conditions as per Rule-3 A (iii) & (vii) Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011. The applicant Sri Debasis Panda submitted all necessary documents to the Superintendent of Post Offices, Kalahandi Division, Bhawanipatna on 26.11.2015 and thereafter vide order dated 02.02.2016 (Annexure-A/3 of O.A. No.34/18) the Superintendent of Post Offices, Kalahandi Division, Bhawanipata directed Sri Debasis Panda to be present at Nunmath Post village on 15.02.2015 for verification failing which his candidature for the post of GDS BPM Nunmath BO in account with Kelsinga SO under Kalahandi Division will be cancelled and no further claim for the post will be entertained in future. The cause of the present case arose on 08.12.2017 (Annexure-A/5) by which he was informed that his engagement shall be subject to the outcome of the O.A. No.18/16.

3. Now coming to the merit of the O.A. No.18/16, it may be stated at the outset that this application has been luxuriously filed without any substantive right. After coming into force the GDS Conduct Rule 2011 there cannot be any appointment to a post without following recruitment process as envisaged under the Rules. The working of the present applicant was purely on stop gap arrangement and no right accrues. That apart Digambar Behera is not competent to stall the appointment of Debasish Panda who has been selected under a due recruitment process. The applicant is not competent to challenge the notification inviting application for eligible persons in pursuance of recruitment rules of 2015. That apart in the impugned order dated

16.12.2015 (Annexure-A/7) of O.A. No.18/16 the Superintendent of Post Offices clearly averred that Sri Digambar Behera was appointed as EDDA subsequently designated as GDSMD Nunmath Branch Post Office on 23.05.1989 and on temporary arrangement, he worked in the said post from 08.01.2005 to 21.08.2009 on temporary stop gap arrangement. The information furnished by him that he worked as GDSBPM Tonsir during the period from 04.01.2005 to 21.08.2009 is not correct. It is admitted position that Sri Behera took over charge of GDSBPM Nunmath on 22.08.2009 after death of Chittaranjan Rana, the then GDSBPM of the BO. It could not be possible to make appointment against the said post immediately due to ban on recruitment and thus Sri Behera was ordered to manage the work of GDSBPM in addition to his own work on combined duty arrangement but his permanent absorption under the rule is not permissible. According to the Superintendent of Post Offices, Kalahandi Division, Sri Digambar Behera, GDSMD Nunmath BO, now working as GDSBPM of the said BO is not entitled to be absorbed as GDSBPM Nunmath BO in account with Kesinga SO and accordingly his representation received at Divisional Office on 17.11.2015 was considered and rejected. There is nothing wrong in the impugned order calling for interference. Once a candidate has been selected under recruitment process it cannot be stalled on any pretext. We have every reason to believe that the applicant Sri Digambar Behera is under an misnomer that no recruitment can be made under the new Recruitment Rules and every thing to run on stop gap arrangement. A person without substantive right can not challenge a recruitment process.

4. Now the position of law is well settled that no appointment can be made by-passing the said rule and every appointment has to be made under a recruitment process as enumerated under the GDS (Conduct & Engagement) Rules, 2011. Hence ordered.

5. The O.A. No.18/16 is dismissed, O.A. No.34/2018 is allowed. Respondents are directed to issue appointment order in favour of the applicant Sri

Debasis Panda of O.A. No.34/18 in view of their own offer of appointment forth with.
No costs.

(M. SARANGI)
MEMBER (A)

(S.K.PATTNAIK)
MEMBER (J)

K.B./C.M.