

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.960 of 2012

Cuttack this the 8th day of December, 2017

CORAM:

THE HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)
THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Chittaranjan Sahoo, aged about 45 years, S/o. late Gadadhar Sahoo, at present working as PSSK Agent under Jagannathpur PSSK of Village-Jagannathpur, PO-Balabhadrapur, Via-Kalapathar, Dist-Cuttack

...Applicant

By the Advocate(s)-M/s.M.K.Khuntia
A.K.Apat
J.K.Digal
Ms.B.K.Pattnaik

-VERSUS-

Union of India represented through:

1. The Director General of Post, Dak Bhawan, Sansad Marg, New Delhi
2. The Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda
3. The Senior Superintendent of Post Offices, Cuttack City Division, Cuttack
4. The Asst. Superintendent of Post Offices (ASPOS), East Sub-Division, Cuttack
5. The Sub Post Master, Kalapathar, S.O., At/PO-Kalapathar, Dist-Cuttack
6. Mrs.Kadambini Sahoo, C/o. Basant Kumar Sahoo, At-Gopinathpur, PO-Balabhadrapur, Via-Kalapathara, Dist-Cuttack

...Respondents

By the Advocate(s)-Mr.M.R.Mohanty(Res.1 to 5)
Mr.P.K.Padhi (Res.No.6)

ORDERDR.MRUTYUNJAY SARANGI, MEMBER(A)

The applicant was working as Panchayat Sanchar Seba Kendra Agent (PSSKA) under the Jaganathpur PSSK of Cuttack District at the time of filing of the O.A. He was recommended for the said post by the Sarparch to the Superintendent of Post Offices, Cuttack City Division vide letter dated 20.3.2001. He therefore, took over the charge of Sanchar Kendra on 27.3.2001 vide his joining report at A/2. The Senior Superintendent of Post Offices, Cuttack City Division (Res.No.3) had issued an advertisement on 9.8.2012 for the post of GDSBPM, Balabhadrapur BO.O in account with Kalapathar S.O. The following eligibility conditions were prescribed in the advertisement.

Eligibility Conditions:

1. The applicant selected as GDSBPM must take up residence at the village where the post office is located before appointment.
2. The applicant must be able to provide suitable rent-free accommodation for housing the post office.
3. The applicant must have passed the matriculation or equivalent examination.
4. The applicant must be within the age of 18 year to 65 years as on last date prescribed for receipt of application.
5. The applicant should not be an agent of LIC or any other Insurance/Financial Companies.

The applicant had filed O.A.No.779/12 before this Tribunal which was disposed of on 17.10.2012 with a direction to the respondents to consider his representation. On 4.11.2012, the applicant filed a representation with the SSPO,

praying for weightage to his service as PSSKA. This representation was rejected by the SSPO (Respondent No.3) vide order dated 27.11.2012 on the ground that he was never appointed or selected by the Department in any GDS Post and therefore, cannot be treated as a retrenched candidate for absorption/appointment in any GDS Post and his prayer for appointment in the post of GDSBPM, Balabhadrapur B.O. on the basis of his experience as Sanchar Kendra Agent is not permissible under the rules. The applicant has filed the present O.A. challenging this communication dated 27.11.2012 and has prayed for the following reliefs:

- i) To quash the rejection order dated 27.11.12 under Annexure-A/6.
- ii) To direct the respondents to appoint the applicant as GDSBPM, Balabhadrapur or alternatively direct the respondent to give weightage to the experience of the applicant while filling the post of GDSBPM, Balabhadrapur.
- iii) And pass such other order/orders as may be deemed fit and proper for the interest of justice.

2. The applicant has based his prayer mainly on the ground that he has been working as PSSK Agent from the year 2001 and therefore, deserves weightage for his experience. The job and the duties of PSSK Agent and GDBPM are same. It is the settled position of law that if an employee works for a considerable period with an organization he has to be considered when a regular post is to be filled up.

3. The official-respondents in the counter reply filed on 3.4.2013 have contested the claim of the applicant on the ground that the applicant was appointed by the local Sarpanch and had never worked as GDS. The scheme of Panchayat Sanchar Seva Yojana operates in Gram Panchayat headquarters without post offices. The postal facilities are made available to the people through a network of PSSK. The scheme is implemented by the Gram Panchayat through an agent appointed by them,. The Agents do not come under the administrative control of the Department of Posts and there is no master servant relation between them. There is no provision to give weightage for past experience as PSSK Agent while making selection to the GDS posts. Since the applicant had submitted his application in response to the advertisement dated 9.8.2012, his application was considered on merit and as per his eligibility. Therefore, there is no merit in the OA. which should be dismissed.

4. The applicant filed a rejoinder on 30.1.2014 in which he claims that since he has been continuing for more than 13 years as PSSK Agent, his experience should be given weightage for selection to the post of GDSBPM, Balabhadrapur B.O. The applicant has been receiving his monthly remuneration from the respondents as per A/7 and there is a master servant relationship. The State being a model employer should take

care of the welfare of its employees who have been exploited for years together with a very paltry amount.

5. Counter reply was also filed by the private respondent no.6 who has been selected for the post of GDSBPM, Balabhadrapur B.O. She has taken exception to the fact that the applicant has not cited any rule/instruction/law or any authority on the basis of which he claims preference for the post of GDSBPM while working as PSSK Agent. She claims that she has been selected as per merit and delay in her appointment is causing hardship to her. The applicant had participated in the process of selection. But Respondent No.6 has been adjudged more meritorious than him. The applicant has been working for a few hours every day to provide postal facilities to the local villagers and he is neither a casual labour nor a daily wager working under the respondents and therefore, has no right to claim preference to the post of GDSBPM, Balabhadrapur BO.

6. We have heard the learned counsels from both the sides and perused the documents submitted by them. It is undisputed that the applicant was appointed by the Sarpanch of the village to work as PSSK Agent. The Sanchar Seva Unit was introduced with effect from 30.9.1995. As per the scheme details furnished by the respondents, the Department of Posts in their circular no.1/25/94-95/PSSK/PLG dated 11.9.1995 have stated that the working hours of a PSSK will not exceed three hours. The

Sanchar Kendra In Charge will be appointed by the Gram Panchayat with the written consent of the concerned Superintendent/Sr. Superintendent of Post Offices. PSSKAs have the following qualifications.

- a) The prospective SKA should have passed matriculation examination (10th class).
- b) The prospective SKA should be between 18 to 62 years of age on the date of his appointment.
- c) He shall be a person bearing a good moral character and no criminal cases should be pending against him.

7. A perusal of the above scheme makes it clear that the PSSK Agent is not a regular employee of the Department of Posts. On the other hand, it is the Gram Panchayat headed by the Sarpanch which appoints him. The applicant has annexed at A/7, a receipt issued by the Department of Posts to the Sarpanch or Administrator of Gram Panchayat for disbursal of the amount of Rs.626.50 towards fixed allowance and incentive for November, 2012. Although the applicant has signed the same receipt, payee is the Sarpanch or Administrator of Gram Panchayat. Therefore, his claim that he has a master servant relationship with the Department of Posts is unfounded.

8. We have perused the advertisement issued by the Department of Posts for the post of GDSBPM, Balabhadrapur B.O. There is no mention about any preference to be given to the PSSK Agent nor there is any such provision for the same in the recruitment rules for the GDSBPM. That being so, giving preference to the applicant at the cost of any other candidate

selected on merit will be a violation of rules. It is quite obvious that the applicant has no legally enforceable right. In view of the above, the O.A. is dismissed as devoid of merit. No costs.

(DR.MRUTYUNJAY SRARANGI)
MEMBER(A)

(S.K.PATTNAIK)
MEMBER(J)

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