

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 260/00569 OF 2017
Cuttack, this the 21st day of June, 2018

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

.....

N. Ranjan Kumar,
aged about 49 years,
Son of Late Basudev Nayak,
At- Kandipal, PO- Pritipur,
PS- Binjharpur, Dist-Jajpur.

...Applicant

(By the Advocate-M/s. D.Mohanty, T.N.Choudhury, G.Padhi, K.S.Das)

-VERSUS-

Union of India Represented through

1. Secretary, Ministry of HumanResources Department, Sastri Bhawan, New Delhi.
2. Commissioner, Navodaya Vidyalaya Samiti, B-15, Institutional Area, (Sector-62), Dist- Goutam Budha Nagar, Noida-201367 (U.P.).
3. Deputy Commissioner, Navodaya Vidyalaya Samiti, Hyderabad Region, Nalagandia Gopanpally, Dist. Rangareddy, Hyderabad-500107 (Telengana).
4. Deputy Commissioner, Navodaya Vidyalaya Samiti, Bhopal Region, A-135A, Gate No. 2, Alakapuri, Bhopal-462024 (M.P.).
5. Principal, Jawahar Navodaya Vidyalaya, At/PO-Hotpeth, Dist- Yadgiri, Karnataka-585287 (Karnataka).

...Respondents

(By the Advocate- Mr. S.Behera)

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O R D E R

S. K. PATTNAIK, MEMBER (J):

Applicant in this Original Application has prayed for the following reliefs:

"In view of the facts and circumstances applicant prays that the Hon'ble Tribunal may graciously be pleased to quash the impugned letter dated 23/12/2016 under Annexure-A/11 being not applicable to the applicant;

And further be pleased to direct the Respondents that present Recruitment Rule (as made applicable from 29/08/2015) will not be applicable to the applicant since he had already been appointed under 1992 Recruitment Rule prevailing then and continued in the post more than 3 months as a regular post continuously.

And further be pleased for disposal of his approval of appointment pending since 1993 (as admitted in their letter dated 01/02/1993 under Annexure-A/8 series);

And further be pleased to direct the Respondent No. 2&3 to reinstate the applicant forthwith in the post of Storekeeper with all financial and service benefit retrospectively against existing vacancy Orissa JNV under Bhopal Region."

2. As it appears this case is having a chequered career and is briefly stated. Applicant was appointed as Store Keeper at Jawahar Navodaya Vidyalaya Bheemarrayangudi in the State of Karnataka initially on a temporary basis and thereafter he was allowed to attend interview. After the interview he was offered appointment as store keeper which was subsequently withdrawn as such offer was issued without obtaining the approval of the competent authority. The applicant challenged such withdrawal of the offer of appointment before the Hon'ble High Court of Delhi in Civil Writ Petition in Civil Writ

Petition No. 2733 of 1993 which was dismissed on 24/08/1993. Thereafter, the Petitioner approached the Hon'ble High Court of Orissa in OJC No. 16265 of 1998 and the same was disposed of with direction to the authority concerned to consider the representation of the Petitioner. Accordingly, the representation of the petitioner was rejected on 29.10.2004 which order was challenged by the applicant before this Bench in OA No. 668 of 2006. The OA was also dismissed by this Bench on 04/12/2008. The Petitioner challenged the said order of dismissal before the Hon'ble High Court of Orissa in WP (C) No. 1781 of 2009 which was also dismissed on 05/03/2010. Thereafter, the Applicant filed RA No. 74 of 2010 before the Hon'ble High Court of Orissa which was disposed of on 27/08/2010 with observation that if the authorities so desire they may consider the representation of the Petitioner. The Respondents considered and rejected the representation on 27/09/2012 which was again challenged by the Applicant in OA No. 639 of 2013 and the same was also dismissed by this Bench on 23/09/2013. Again the Applicant challenged the aforesaid order of this Bench dated 23/09/2013 before the Hon'ble High Court of Orissa in WP (C) No. 24649 of 2013 which was disposed of on 03/10/2016, an excerpt from it would run thus:

“6. In the situation, as noted hereinabove, though we cannot direct reinstatement of the petitioner in the post of Store Keeper, However, we are of the considered view that the petitioner may apply for the post of Store Keeper after advertisement is made and if he applies, the opposite parties are directed to consider the petitioner's case in accordance with law after relaxation of his age (if the petitioner has crossed the maximum age limits), in view of

the fact that the petitioner had at one point of time been engaged as a Store Keeper under the Opposite Parties 3 & 4.

7. With the aforesaid observation and direction, the writ petition is disposed of. Interim order dated 26/08/2016 stands vacated.”

3. As it appears from record, in compliance of the order of the Hon'ble High Court of Orissa dated 23/09/2013 in WP (C) No. 24649 of 2013, the Respondents, vide letter dated 23/12/2016 intimated the Applicant as under:

“As you are aware, Hon'ble High Court of Orissa, Cuttack has passed an order dated 03/10/2016 in WP No. 24649/2013 with the following directives regarding appointment of Shri N.Ranjan Kumar to the post of Store Keeper at JNV, Gulbarga (now known as Dist. Yadgiri/Karnataka).

*“.....though we cannot direct reinstatement of the petitioner in the post of Store Keeper, however, we are of the considered view that the petitioner may apply for the post of Store Keeper **after advertisement is made** and if he applies, the opposite parties are directed to consider the petitioner's case in accordance with law after relaxation of his age (if the petitioner has crossed the maximum age limits), in view of the fact that the petitioner had at one point of time been engaged as a Store Keeper under the Opposite Parties 3 & 4. With the aforesaid observation and direction, the writ petition is disposed of. Interim order dated 26/08/2016 stands vacated.”*

It is to inform you that an advertisement for filing up the vacancies of LDC/SK in JNVs of Hyd Region was already got published in Employment News dated 29.08.2015 and further selection process is being done at NVS Hqrs. Further in compliance to the Hon'ble High Court Order dated 03.10.2016, it is intimated that you may apply for the post of Store Keeper in JNVs duly seeking age relaxation referring the Court order, if advertisement is published by this office in future.”

4. The applicant challenged the aforesaid letter dated 23/12/2016 before the Hon'ble High Court of Orissa in W.P.(C) No.

19347 of 2017 and on the prayer of the Applicant, the aforesaid Writ Petition was disposed of as withdrawn granting liberty to the Applicant to approach before the Tribunal. Hence by filing the present OA, the Applicant has sought the reliefs stated above.

5. Respondents have filed their counter contesting the case of the Applicant and have prayed that the OA being devoid of any merit is liable to be dismissed.

6. Heard arguments advanced by learned counsel for both sides and perused the records.

7. We are of the considered view that after the order of the Hon'ble High Court of Orissa dated 03/10/2016 in WP (C) No. 24649 of 2013, except the prayer for quashing the impugned order dated 23.12.2016 all other reliefs became redundant and outmoded as allowing the reliefs shall tantamount to sitting over the order of the Hon'ble High Court which is not permissible in the eyes of law. The only thing left for this Tribunal to consider whether the letter dated 23/12/2016 is in consonance with the direction of the Hon'ble High court of Orissa or not. We find that the Hon'ble High Court in WP (C) No. 24649 of 2013 while declining to direct reinstatement of the applicant were pleased to observe that the petitioner may apply for the post of Store Keeper after advertisement is made and if he applies, the opposite parties are to consider the petitioner's case in accordance with law after relaxation of his age (if the petitioner has crossed the maximum age limits), in view of

the fact that the petitioner had at one point of time been engaged as a Store Keeper under the Opposite Parties 3 & 4 and the Respondents in the letter dated 23/12/2016 intimated to the Applicant that an advertisement for filling up the vacancies of LDC/SK in JNVs of Hyd Region has already been published in Employment News dated 29/08/2015 i.e. prior to the order of the Hon'ble High Court of Orissa and, therefore, the applicant was advised to apply for the post of Store Keeper in JNVs duly seeking age relaxation referring the Court order, whenever advertisement is issued by the JNVs. In view of the above we are yet to convince as to how such letter has given rise a cause of action to the Applicant to approach this Bench especially when the specific direction of the Hon'ble High Court was that the applicant may apply after the advertisement for the post of Store Keeper is made.

8. In view of the discussions made above, we find no wrong in the letter dated 23/12/2016 necessitating any judicial interference. Hence, this O.A. is dismissed. No costs.

(M. SARANGI)
Member (Admn.)

(S.K.PATTNAIK)
Member (Judl.)

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