

**Central Administrative Tribunal
Madras Bench**

OA/310/00562/2019

Dated 25th day of April Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

V.Simeon
S/o Valsalam,
Terismpu, Viralikathevilai,
Mekkamondapam,
Kanyakumari District. .. Applicant
By Advocate M/s.V.Vijay Shankar

Vs.

1. Union of India rep by the
Secretary to Government,
M/o Communication,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi-1.
2. The Chief Post Master General,
Chennai.
3. The Senior Superintendent of Post Offices,
Kanyakumari Division, Nagercoil 629001.
4. The Assistant Superintendent of Post Offices,
Thucklay Sub Division,
Thucklay, Kanyakumari District. .. Respondents

By Advocate Mr.SU.Srinivasan

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“...to direct the respondents to appoint/absorb the applicant in any one of the GDS posts proposed to be filled by the present Notification No.STC/12-GDSONLINE/2019 dated at Chennai the 10.03.2019 under the 4% Physically Handicapped Quota pursuant to the directions of the Tribunal in OA No.1446/2013 and notification of the Government of India No.17-8/2017-GDS dated 21.6.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and 2016 Disabilities Act with all consequential benefits including pay, seniority and other benefits and pass such other order or orders as may be deemed fit and thus render justice.”

2. The applicant's case is that, he is working as GDS outsider from 2006 onwards and he is Physically Handicapped and he is entitled to get protection under the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. He had earlier approached the Tribunal with OA 1446/13 wherein he sought the implementation of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 for the post of GDS and the said OA was allowed. The respondents had implemented the Act for GDS post also. Now the respondents had published a notification in the month of March 2019 for filling up of 4400 posts of GDS all over the State. According to the applicant, in Kanyakumari District alone 105 vacancies have been

notified and if 4% of the vacancies is earmarked for the Physically Handicapped Quota, about 164 posts are available for Physically Handicapped persons all over Tamilnadu and 4 posts in the Kanyakumari District alone. As per notification the applicant has also applied for the post online. According to him, the last date of application is on 21.4.2019. The respondents are hastily taking steps to fill up the post by computer generated list. The applicant apprehend that he would be ousted from service after regular appointment is made and he filed this OA. According to him, he had put in more than 12 years of service and the respondents are not taking into consideration the service rendered by the applicant. So, accordingly the applicant prays for issuing a direction to consider the past service of the applicant and regularize him or absorb him in the said post with all consequential benefits.

3. Mr.SU.Srinivasan takes notice for the respondents and submits that there is no provision for absorbing the applicant who is a GDS outsider coming under the casual appointment on leave vacancies to the post of Physically Handicapped Quota. The applicant has already applied for the said post in the Handicapped Quota and he has to wait till the selection is made. The applicant has no cause of action at this stage.

4. We have anxiously heard the applicant and perused the various Annexures produced in this case. If we go through the pleadings, it can be seen that the applicant is a Physically Handicapped person and he had also applied for the same. But he apprehend that he may be ousted from service and he will not be selected to the post by the respondents since the selection is based on computer inputs. So,

accordingly he prays for a direction to consider his past service also and absorb him to the vacancies available in Kanyakumari District. On a perusal of the pleadings and the order passed by the respondents as per directions given by this Tribunal in OA 1930/17, it can be seen that at present there is no provision for absorbing the applicant and he was not regularized earlier as he could not avail the facility of dovetailed list prepared by the Postal Department for persons who were in service prior to 2006. Now the only point to be considered is whether the applicant can be absorbed under the 4% quota fixed for the appoint of Physically Handicapped persons in the GDS category.

5. On a careful scrutiny of the submissions made from both sides, we see that the applicant has come before the Court anticipating that he may not be selected and he wants to get himself absorbed in the 4% Physically Handicapped Quota without undergoing any selection process. There is no provision in the Act for absorbing the Physically Handicapped persons in the quota fixed for appointment. In such a circumstance, there is no merit in the application applied by the applicant. It is for the respondents to take a policy decision whether the past service/casual service rendered by the applicant and similar persons to be considered in the selection process. At this juncture the Tribunal cannot direct the respondents to take a policy decision in this matter i.e. consider the service rendered by the applicant for absorption as GDS. The applicant has not succeeded in making out a *prima facie*

case in his favour. The OA lacks merits and is liable to be dismissed at the threshold itself.

6. Accordingly OA stands dismissed at the admission stage.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

25.04.2019

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