

**Central Administrative Tribunal
Madras Bench**

MA/310/00370/2019 (in)(&) OA/310/00776/2019

Dated the 23rd day of July 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. .. Applicant
By Advocate **M/s.C.P.Goutham**

Vs.

1. The Union of India,
rep by its Secretary to Government,
M/o Communication,
Department of Post, Dak Bhavan,
Sansad Marg, New Delhi. 110001.
2. The Chief Post Master General,
Tamilnadu Circle, Annasalai,
Chennai.
3. The Senior Superintendent of Postal Offices,
Kanyakumari Division,
Nagar Coil 629001.
4. The Assistant Senior Superintendent of Postal Offices,
Thacklay Sub Division, Thacklay,
Kanyakumari 629001. .. Respondents

By Advocate **Mr.J.Vasu**

ORDER

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

This is an OA filed seeking the following relief:-

“To call for the records of the 2nd respondent pertaining to his notification Order No.STC/12-GDSOnline/2019 dated 10.3.2019 in so far as ED packers/GDS ABMP post at Mulagumoodu Sub Office under the 4th respondent division is concerned dated 10.3.2019 and set aside the same, consequent to,

Direct the respondent to absorb the applicant as ED packer/GDS ABMP Post at Mulagumoodu Sub Office under the 4th respondent division on considering her long years of service.

To pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case.”

2. The applicant is working as GDS in different capacities at Mulagumoodu Sub-Post Office from 2006 onwards. He is a physically handicapped person with 50% disability. He is a person coming under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
3. As the respondents were not ready to give reservation to physically handicapped persons in appointments to GDS post, he filed OA 1446/13 for a direction to identify the post for disabled persons in GDS service and accommodate him against any of the identified vacancies and grant him fixation of pay etc.
4. The respondents opposed the OA, but the Tribunal by order dated 16.3.16 directed the respondents to implement the Persons with Disabilities (Equal

Opportunities, Protection of Rights and Full Participation) Act, in GDS recruitment also.

5. Now, the respondents are going to implement the act for GDS posts also.

6. Respondents had disengaged him w.e.f. December 2017 and the applicant filed OA 1930/17 and it was disposed off with a direction to consider the applicant for regular appointment to the physically handicapped quota. But the 3rd respondent had rejected the representation stating that the applicant can apply when notification is issued. But he was permitted to continue in the same post.

7. Now, the respondents had issued a notification dated 10.3.19 and the respondents are going to fill up the posts of 4400 GDS. The 2nd respondent had provided for 4% reservation in which 6 posts are allotted to physically handicapped persons in his area.

8. According to the applicant, he is entitled to get regularization of his service to the GDS as he was working for last 13 years and seeks to order status quo as on date regarding his employment as GDS.

9. The respondents appeared and filed reply denying any entitlement for regularization. According to them, the applicant was engaged as stop-gap arrangement not exceeding 89 days and purely on temporary basis. The respondents had issued notification for selection to the post of GDS and 4% reservation is provided. The applicant can apply for the post. The department had stopped the

regular engagement for vacant GDS posts as done earlier. So, the claim of the applicant for regularization cannot be acceded to.

10. We have heard both sides and perused the pleadings. As far as recruitment to the post of GDS is concerned, now it is covered by the GDS Conduct and Engagement Rules, 2011 and it has fixed eligibility criteria and their regular engagement can be done only according to rules. The applicant has applied for the post and as per statement, he is found not meritorious and he cannot be engaged as GDS in the physically handicapped quota. But the claim of the applicant to regularize him in one of the reserved post has no merit as there are rules for the selection and engagement of GDS personnel. The respondents had notified about 6 posts under physically handicapped persons and there is no merit in the contention that since he is being engaged as GDS on temporary basis, he should be appointed to one such post without undergoing the selection process. In ***Secretary, State of Karnataka And...vs. Umadevi And Others (Appeal (civil) 3595-3612 of 1999*** case the Hon'ble Apex Court has held that public employment in a sovereign State has to be set down by the constitution and the laws there under. The applicant has put his demand for regularization in OA 1446/13 and it was not allowed and the Tribunal has disposed of the said OA with a direction to grant reservation as per Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

11. There is no merit in the claim put forward in this case. In view of the above,

we find that there is no merit in the application.

12. Hence, the OA will stand dismissed. Consequently MA 370/19 for stay will also stand dismissed.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

23.07.2019

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