

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 698 of 2015

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)

Malay Kumar Jena, aged about 40 years, S/o Mr. Nabakishore Jena, At present working as Gramin Dak Sevak (Mail Delivery), At-Chhatisdebil Branch Post Office, Via-Sujanpur, Dist-Jajpur.

.....Applicant

VERSUS

1. Union of India, represented by the Director General of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Orissa, At/Po-Bhubaneswar, dist-Khurda.
3. Superintendent of Post Offices, Cuttack North Division, At/PO-Cantonment Road, Cuttack.

.....Respondents.

For the applicant : Mr.S.B.Jena, counsel

For the respondents: Mr.P.K.Mohanty, counsel

Heard & reserved on : 16.8.2019

Order on : 20.8.2019

O R D E R

Per Mr. Gokul Chandra Pati, Member (A)

The applicant's father was an employee under the respondents and he was prematurely retired on the ground of medical invalidation in the year 1997. The applicant applied for compassionate appointment and his case was considered by the CRC on 16.12.1998 and he was recommended for appointment to PA cadre by the CRC and it was also approved by the respondent No. 2 vide the letter dated 16.2.1999 (Annexure-A/1). But he was not given any offer of appointment as a PA, for which he filed the OA No. 190/2002 before this Tribunal. This OA was disposed of vide order dated 14.1.2003(Annexure-A/2) by which, the respondents were directed to allow the applicant to work as EDA/GDS immediately to remove the immediate hardships of the distressed family with the condition that till the applicant's turn to get a regular post in the regular establishment comes. The applicant, thereafter, was appointed as GDSMD vide order dated 24.4.2003 (Annexure-A/3).

2. The applicant is aggrieved as in spite of the representations to the respondent No. 2 for appointment as PA in his favour against the vacant posts as his turn has already come, no decision has been taken in his case. He has filed the representation dated 25.1.2015 (Annexure-A/4) and then filed this OA with the prayer for the following reliefs:-

"Under the circumstances, the petitioner most humbly and respectfully prays that the Hon'ble Tribunal may be pleased to direct the authorities to consider the case of the petitioner for appointment as Postal Assistant.

OR pass such other order(s)/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

And allow the Original Application with costs."

3. The respondents filed a short reply to the OA stating that as per the letter of the DOPT vide the OM dated 24.11.2000 (Annexure-R/3), the system of maintaining the waiting list of recommended candidates was discontinued by the respondents and vide letter dated 25.7.2001 (Annexure-R/4) of the DG, Posts, the GDS vacancy was to be offered to the dependents of regular employees who were already approved for appointment and kept in the waiting list. It is stated that in pursuance of the letter dated 25.7.2001, the applicant and other wait-listed candidates were asked to give willingness for being engaged as GDS. The applicant instead of giving his willingness, filed the OA No. 190/2002 and he was engaged as GDS after passing of the order dated 14.1.2003 of the Tribunal. In compliance of the order dated 14.1.2003, the applicant was engaged as GDS and simultaneously, the order was challenged in the writ petition before Hon'ble High Court. The said writ petition was dismissed on 28.2.2019 with liberty to the respondents to revive the writ petition within thirty days. It is stated that the respondents have taken action to revive the writ petition before Hon'ble High Court and requested for time for adjudication of the case.

4. Learned counsel for both the sides were heard on the issue of admission of this OA. Vide order dated 14.1.2003 (Annexure-A/1) of this Tribunal, the following directions were given to the respondents:-

"In the aforesaid premises, having heard the learned counsels of both sides, respondents are directed to provide an employment to the applicant in the cadre of E.D.A./G.D.S. As the case may be, in order to remove the immediate hardships of the distressed family and the said arrangement should be continued until the applicant's turn to get a regular post in the regular establishment of the Department comes, Engagement of the applicant in the E.D.A./G.D.S. post may be provided to the applicant by end of April, 2003."

5. It is seen from the order dated 14.1.2003 that the respondents in that OA had averred that the applicant was waitlisted and as and when his turn will come, his case for appointment as PA will be considered. The OM dated 24.11.2000 (Annexure-R/3), by which, the system of maintaining the waiting list of the candidates for compassionate appointment being followed by the Department of Post, was stated to be not in accordance with the scheme, was not placed before this Tribunal in the OA No. 190/2002.

6. In view of the above and in the interest of justice, the OA is disposed of at this stage with a direction to the respondent No. 2 to consider and dispose of the representation dated 25.1.2015 (Annexure-A/4) of the applicant in accordance with the order dated 14.1.2003 (Annexure-A/1) of this Tribunal passed in the OA No. 190/2002 as well as the scheme for compassionate appointment and pass a speaking order, copy of which is to be communicated to the applicant within four months from the date of receipt of a copy of this order. In case the writ petition challenging the order dated 14.1.2003 dismissed by Hon'ble High Court is revived as per averments in the short reply filed by the respondents, then this order will be subject to order of Hon'ble High Court in the said writ petition.

7. The OA is disposed of as above with no order as to costs.

(GOKUL CHANDRA PATI)
MEMBER (A)

I.Nath