

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/585/2014

Date of Reserve:10.4.2019
Date of Order:28.06.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Sri Biranchi Narayan Mishra, aged about 44 years, S/o. Late Ainthra Mishra, resident of Vill_Rathipur, PO-Takera, PS-Daspalla, Dist-Nayagarh, Odisha, PIN-752 084.

...Applicant

By the Advocate(s)-M/s.C.P.Sahani
P.Ku.Samal
D.P.Mohapatra

-VERSUS-

Union of India represented through:

1. The Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. Chief Post Master General, Odisha Circle, At/PO-Bhubaneswar, Dist-Khurda, Odisha-751 001.
3. Senior Supdt. Of Post Offices, Puri Division, Puri-752 001.
4. Inspector of Postal, Nayagarh West, Nayagarh-752 069.

...Respondents

By the Advocate(s)-Mr.C.M.Singh
ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

In this Original Application under Section 19 of the A.T.Act, 1985, the applicant has sought for the following reliefs:

"...to direct the respondent(s) not to make any fresh appointment against the post of GDSBPM, Takera BO in account with Daspalla SO and redeploy the applicant in the above said post quashing the impugned order No. A-652(Sub) dated 04.06.2014".

2. Facts of the matter in brief are that applicant was appointed as GDS MD (previously EDDA) Takera BO in the year 1991. While working as such, in addition to his own duties as GDSMD, he was directed to take over the charge

of the post of GDS Branch Postmaster of the said Branch Post office vide order dated 08.06.2005. After having worked in the post of GDSBPM, the applicant submitted a representation dated 02.01.2013 followed by several reminders to redeploy him as GDSBPM, Takera BO on regular basis. His representation was rejected vide order dated 28.05.2013 by the CPMG on the ground that the post of GDSMD, Takera BO has not been declared surplus. Aggrieved with this, the applicant has filed the present O.A. seeking for reliefs as mentioned above.

3. The grounds on which the applicant has claimed reliefs are that Takera BO has sanctioned strength of one GDSMD and one GDSBPM. He was directed to take over the charge of GDSBPM in addition to his own duties as GDSMD with effect from 8.6.2005. Vide DG Posts' letter dated 14.08.2013 a ban was imposed on the recruitment of GDS officials and as such, he continued to work against the vacant post of GDSBPM. Later on it was clarified that the recruitment of GDS vacant posts would be decided by the Chief Post Master keeping in view the justification in terms of workload. The respondents never examined the workload of Takera BO after 17.02.2004 when the above clarification was issued in order to come to a conclusion that the post of GDSMD is surplus or otherwise. Therefore, the applicant having worked as GDSBPM Takera BO for about nine years, it is unreasonable on the part of the respondents to deny his claim for regular appointment as GDSBPM, Takera BO. It has been contended that in the aforesaid facts and circumstances and keeping in view his long standing service rendered to the Department as GDSBPM, the applicant deserves to be appointed/redeployed against the said vacant post.

4. Per contra, respondents have filed a detailed counter. While admitting the factual aspects of the matter, i.e., applicant's discharge of duties as

GDSBPM in addition to his own duties as GDSMD, Takera BO, the respondents have pointed out that as per the recent instructions issued by the DG Posts vide letter dated 17.02.2011, the vacant GDSBPM in Branch Post Offices (irrespective of number borne on establishment) are to be filled up by Head of the Division without referring to HOC by adopting the following methods:

- i) By appointment of surplus identified GDS fulfilling the condition, failing which:
- ii) By combination of duties of GDS in the same BO, provided the combined workload does not exceed 5 hours, failing which
- iii) By recruitment of outsiders by observing the selection process.

5. Respondents have pointed out that Takera BO consists of one GDSBPM and one GDSMD. Therefore, it is not possible to manage all the works by a single person. In view of this, it is necessary to fill up the vacant post of GDSBPM. It has been submitted that the applicant had applied for redeployment in the post of GDSBPM, but after due consideration, his request was turned down. Respondents have submitted that the applicant is being paid combined duty allowance for the period of his working as GDSBPM in addition to his own duties as GDSMD. It is the case of the respondents that as the applicant has been appointed as GDSMD, there is no need to post him in the post of GDSBPM and therefore, his representation was rightly rejected by the competent authority.

6. Applicant has filed a rejoinder to the counter which is more or less reiteration of the averments made in the O.A.

7. We have heard the learned counsels for both the sides and perused the records. We have also gone through the written notes of submission filed by

the learned counsel for the applicant. In the written notes of submission, the applicant has relied upon a decision of this Bench in O.A.No.969 of 2013 (Sitansu Sekhar Rath vs. Union of India & Ors) decided on 25.05.2019 to fortify his stand point. According to applicant, the point to be decided in the instant O.A. has been set at rest by this Tribunal in O.A.No.969 of 2013 and therefore, the Tribunal should pass a similar order in this matter.

8. On a perusal of the said order, it appears that the applicant (Sitansu Sekhar Rath was initially appointed as E.D.D.A. – cum – M.C. of Barapalli B.O. in account with Nayagarh Bazar S.O. since 22.06.1995 and while working as such, he was directed by the Inspector of Posts, Nayagarh East Sub Division to take charge as GDSBPM, Barapali B.O. in addition to his own duty due to promotion of the existing GDSBPM and the applicant worked in that capacity from 7.8.2003 onwards. However, the Senior Superintendent of Post Offices, Puri Division issued a Notification dated 30.04.2013 inviting applications for filling up the post of GDSBPM, Barapali B.O. despite the fact that the applicant was continuing in that post. The applicant submitted a representation dated 13.05.2013 to the competent authorities to consider his case for permanent posting as GDSBPM, Barapali B.O., but the same was rejected vide order dated 20.11.2013. Aggrieved by this, the applicant had approached this Tribunal.

9. This Tribunal after considering the matter on merit and relying on an earlier order dated 5.2.2018 passed in O.A.Nos. 786/12, 787/12, 1010/12, 318/13, 319/13, 16/14, 24/14, 34/14, 156/14, 276/14, 277/14, 326/14, 313/14, 4/15, 98/15, 287/15, 45/16, 363/16, 545/16, 112/17 & 266/17 held and decided as follows:

"7. In the present O.A., the order of the Senior Superintendent of Post Offices, Puri Division (Res.No.3) while rejecting the representation of the applicant is quite clear that the applicant has the eligibility for holding the post of GDSBPM

on a permanent basis. He is entitled to be regularly posted in the same post by virtue of his holding the additional charge for more than 10 years at the time of filing the O.A. He is also eligible for a transfer as one time measure due to the Limited Transfer Facilities available to him as per the common orders passed by this Tribunal in O.A.Nos.786/12, 787/12,1010/12,318/13,319/13,16/14,24/14,34/14,156/ 14,276/14,277/14,326/14,313/14,4/15,98/15,287/15,45/ 16,363/16, 545/16,112/17 & 266/17. We therefore hold that applicant's prayer for regular posting the post of GDSBPM, Barpali BO is legally valid and cannot be arbitrarily denied. It is for the authorities to decide whether to continue him discharging the duties of GDSMC in addition to his own duties as GDSBPM. His claim to the post of GDSBPM is unassailable and cannot be illegally denied.

8. In view of the above, the notification dated 30.04.2013(A/3) and the impugned order of rejection dated 20.11.2013 (A/6) are quashed and set aside. The Respondents are directed to issue posting order to the applicant in the post of GDSBPM, Barpali BO. within a period of eight weeks from the date of receipt of this order.
9. In the result, the O.A. is allowed, with no order as to costs".
10. From the above recital of facts there is no iota of doubt that the facts of the present O.A. are identical and similar to the facts in O.A.No.969 of 2013. In this view of the matter, we cannot deviate from the view already taken by this Tribunal under similar facts and circumstances. Therefore, we quash and set aside the impugned letter dated 6.4.2014 (A/8) whereby the request of the applicant for redeployment in the post of GDSBPM, Takera BO has been rejected and accordingly, we direct the respondents to consider posting of the applicant as GDSBPM, Takera BO, provided that he fulfills all the eligibility conditions for the post in question. This exercise shall be completed within a period of 90 (ninety) days from the date of receipt of this order.
11. In the result, the O.A. is allowed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMEBR(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

BKS

