

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/502/2014

Date of Reserve: .06.09.2019

Date of Order:18.09.2019

CORAM:

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

Gouranga Charan Panda, aged about 63 years, S/o. Late Sukadev Panda, At/PO-Baruna, Via-Thakurpatna, Dist-Kendrapara – at present working as GDSMD/MC, Gogua B.O. in account with Choudkulat S.O. under Kendrapara H.O., Kendrapara.

...Applicant

By the Advocate(s)-Mr.D.K.Mohanty
-VERSUS-

Union of India represented through:

1. The Director General of Posts, Ministry of Telecommunication, Dept. Of Post, Dak Bhawan, Sansad Marg, New Delhi-1.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Khurda-1.
3. The Director of Postal Services, Office of theCPMG, Orissa Circle, Bhubaneswar.
4. Superintendent of Post Offices, Cuttack North Division, Cuttack, PIN-753 001.
5. The Assistant Superintendent of Post Offices, Kendrapara Sub Division, Kendrapara.

...Respondents

By the Advocate(s)-Mr.L.Jena

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant was working as GDSMD/MC, Gogua B.O. in account with Choudkulat S.O. under Kendrapara H.O., under the Department of Posts at the time of filing of this O.A. Applicant is aggrieved by the dated 01.04.2014 (A/7) passed by the Superintendent of Post Offices, Cuttack North Division (Respondent No.4) in compliance of the order dated 21.01.2014 of this Tribunal in O.A.No.948/2013 whereby his request for higher Time Related Continuity Allowance (in short TRCA) in the post of GDSMD, Gogua BO has not been acceded to on the ground that there is no post of GDSMD at Gogua BO.

2. The short facts of the matter are that the applicant joined as E.D. Packer, Barua EDSO under the respondent-Department in the year 1982. While working as such, the post of E.D.Packer stood abolished, as a result of which, the applicant was declared surplus. Thereafter, vide Memo No. A/PF/EDMC/PKR-Barua, ESO dated. 17.05.2004 (A/2) of the Assistant Superintendent of Post Offices, Kendrapara Sub Division issued in pursuance of No.B/Genl.-14(KND) dated 23.04.2004 by the Superintendent of Post Offices, Kendrapara Division, the applicant was allowed to work as GDSMD, Gogua B.O. with effect from 01.06.2004 till approval of the arrangement by the Circle Office and it was ordered that the applicant will continue to other disbursing TRCA drawn by him.

3. Grievance of the applicant is that although the TRCA of the post of GDSMD is higher than the post of GDS Packer, he is being paid TRCA of the post of GDS Packer as on date notwithstanding the fact that the post of GDS Packer has already been abolished. Hence, in this O.A., he has sought for the following reliefs:

- i) To quash order dated 1.4.2014 under Annexure-A/7.
- ii) To direct the Respondents to disburse the applicant's TRCA in commensurating with the duties of GDSMD/MC of Gogua B.O.
- iii) To direct the Respondents to disburse the arrears from 1.6.2004 to till date.
- iv) To pass any other order(s) as deemed fit and proper.

4. Respondents have filed a detailed counter opposing the prayer of the applicant. In the fitness of things, the relevant part of the impugned order dated 01.04.2014 (A/7) is quoted hereunder:

“...The post of GDS Packer, Barua EDSO was abolished on review of the office and the applicant was declared surplus. He was directed to manage the delivery work of Gogua BO.

There was a postman post at Gogua BO and proposal was sent to C.O. for its abolition. Approval was received in the year 2006 and the post was abolished then. But no GDSMD post was created due to non-submission of requisite proposal. However, there was representation of the applicant to do delivery work of Gogua BO. Further, as the applicant was declared surplus, he was directed to manage the delivery work of the BO with protection of pay as per rules. Thus the TRC of the applicant is being drawn as per his entitlement. However, with due regard to the judgment of the Hon'ble CAT, Cuttack Bench, Cuttack and in strict compliance to order dated 21.01.2014, it is hereby ordered to collect the required statistics of all the posts of Gogua BO as required under rules, for creation of GDSMD post. The case of the applicant will be considered only after creation of the post of GDSMD Gogua BO in account with Choudakulat SO.

5. As regards prayer of the applicant for payment of TRCA meant for GDSMD made vide his representation dated 08.10.2012 is considered as per rule. Since there is no post of GDSMD at Gogua BO, the undersigned has no scope to pass order for payment of TRC meant for GDSMD, The TRCA of the applicant will be fixed only after creation of the GDSMD post at Gogua basing on workload of the BO".

5. Since the counter almost covers the standpoint as in the impugned order, there is no need to repeat the same. However, the respondents in their counter-reply have added that there was a representation dated 01.03.2004 of the applicant addressed to the Assistant Superintendent of Post Offices, Kendrapara Sub Division (R/1 to the counter) to do the delivery work of Gogua BO.

6. Applicant has filed a rejoinder to the counter which is more or less reiteration of facts as averred in the O.A. However, he has relied on the following decisions of the Hon'ble Supreme Court in support of his case.

- i) State of Punjab & Anr. Vs. Dharam Pal [2017]II) ILR-CUT-728 (SC)].
- ii) Civil Appeal No.213/2013 (State of Punjab & Ors. Vs. Jagit Singh & Ors. Disposed of on 26.10.2016.

7. In the present case although the applicant has worked with higher responsibility, but there was no post of GDSMD at the relevant point of time in that B.O. Therefore, the question of granting differential pay by allowing him higher pay of GDSMD does not arise. In that view of the matter, the decisions as relied upon by the applicant (supra) are not applicable to the facts and circumstances of the case.

8. For reasons discussed above, the O.A. is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

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