

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.260/1001/2016

Date of Reserve:27.08.2019  
Date of Order: 21.10.2019

CORAM:

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

Sri Sailendra Kumar Samanta, aged about 45 years, S/o. Late Dhaneswar Samanta,At/PO-Mahisapata, Via-Gobindpur, District-Dhenkanal – 759 013.

...Applicant

By the Advocate(s)-M/s.S.Mohanty  
S.Jena

-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, Bhubaneswar, Dist-Khurda-751 001.
3. Superintendent of Post Offices, Dhenkanal Division, At/PO/District-Dhenkanal, Odisha-759 001.

...Respondents

By the Advocate(s)-Mr.P.K.Mohanty  
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 Respondents to provide alternate appointment to the applicant in any GDSBPM post, after taking into consideration his past service experience of 2 years and 250 days in the said post and qualification".

2. Shorn of unnecessary details, it would suffice to note that due to termination of services of one Pravakar Naik, a regularly appointed ED/GDSBPM of Mahisapat BO in account with Govindpur Sub Post Office, an open notification was issued in the year 1987 for filling up the said vacant post. The present applicant had applied for the said post and he being the most meritorious candidates amongst all, was provisionally selected as

GDSBPM, Mahisapat BO and joined the post in question in the year 1987. In the meantime, O.A. No.323 of 1989 filed by the said Pravakar Naik challenging his termination from service, was disposed of by this Tribunal with direction to reinstate him in service. Complying with the direction of this Tribunal, the said Pravakar Naik was reinstated in service as a result of which the services of the applicant stood terminated in the year 1990 in order to make room for Pravakar Naik. Thereafter, the applicant submitted a representation dated 06.10.1999, to the respondent-authorities to absorb him against the vacant post of GDSBPM, Beltikiri BO as a retrenched ED Agent. This representation of the applicant was rejected on the ground he had been provisionally selected as EDBPM, Mahisapat BO and had worked from 23.10.1997 to 01.07.1990 which is less than three years and as per the departmental instructions, he was not eligible to be accommodated against a regular GDS post. Thereafter, the applicant appears to have filed a number of Original Applications before this Tribunal praying for the same reliefs. However, it appears that in O.A.No.439 of 2011, the applicant had approached this Tribunal for direction to be issued to Respondents to provide him an employment against the post of GDSBPM on the basis of his past experience against an existing vacancy. The said O.A. was disposed of this Tribunal vide order dated 11.07.2011 with direction to the Superintendent of Post Offices, Dhenkanal Division to consider the case of the applicant against the vacant post of GDSBPM, Kottam BO in Dhenkanal Division as per law particularly, taking into account his qualification and past experience etc. as per their requirement and accordingly, intimate the applicant for finalization of the selection process. It reveals from the record that although the applicant had also applied for the said post of GDSBPM, Kottak BO in pursuance of notification dated 13.09.2010, but could not be selected since one Sunil Kumar Sahoo, who was found to be the most meritorious candidates, was offered the appointment letter and accordingly, he joined the post in question on 21.02.2011, apart from the fact that when the orders of this Tribunal dated 11.07.2011 was received by the respondents, the said selection process had already been finalized. However, the said Sunil Kumar Sahoo

tendered his resignation from the post of GDSBPM, Kottak, which was accepted and consequently, he was relieved of his duties with effect from 06.08.2013. Thereafter, the vacancy of the post of GDSBPM, Kottak was notified to be filled up vide notification dated 26.09.2013 and one Somnath Sahoo being the most meritorious candidates was selected and appointment against the said post. Respondents have pointed out that since the applicant did not apply for the said post, his candidature could not be considered.

3. We have heard the learned counsels for both the sides and perused the records. While it is the case of the applicant that he should be appointed against a GDS post having regard to his past experience, on the contrary, the standpoint of the respondents is that as per D.G.(P&T) Letter No.43-4/77-Pen dated 18.05.1997, it is clarified that "efforts should be made to give alternate appointment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge, they had put in not less than three years' service. In such cases their names should be included in the waiting list of ED Agents discharged from service as prescribed in D.G. (P&T) Letter No.43-4/77-Pen dated 23.02.1979". Based on this, the respondents have pleaded that the case of the applicant could not be considered for absorption in any future vacancies since he had not rendered 3 years service as EDBPM.

4. We have considered the rival submissions. It is an admitted position that the applicant had been provisionally selected and appointed as ED/GDSBPM of Mahisapat BO in account with Govindpur Sub Post Office in pursuance of a vacancy notification that had been issued in the year 1987. Indisputably, he had completed 2 years and 250 days' service as such when his services were terminated on account of reinstatement of the regular incumbent of the post of ED/GDSBPM of Mahisapat BO. This Tribunal, while disposing of O.A. No. 439 of 2011 vide order dated 11.07.2011 had directed the Respondent-authorities to consider the case of the applicant against the vacant post of GDSBPM, Kottam BO in Dhenkanal Division as per law particularly, taking into account his qualification and past experience etc. as per their requirement and accordingly, intimate the

applicant for finalization of the selection process. However, by the time the aforesaid order was received by the respondents, the selection to the post of GDSBPM, Kottam BO had already been over and this fact was intimated to the applicant vide letter dated 14.09.2011. It further reveals that the due to resignation of the GDSBPM, Kottak BO, respondents issued a notification dated 26.09.2013 to fill the said post, but since the applicant did not apply for the said post, he could not be considered and in the circumstances, one Somnath Sahoo being the most meritorious candidates was selected and appointed to the post in question.

5. From the above, it appears that the respondents have not acted unreasonably or arbitrarily. However, as per clarification issued by the DG Posts the names of GDS employees who have rendered not less than three years' service and their services have been terminated on account of administrative reasons, should be kept in the waiting list for absorption against future vacancies. In the instant case, the duration of service falls short by fifteen days only. Besides, as already indicated above, this Tribunal in O.A.No.439 of 2011 had issued a direction to the respondents authorities to consider the case of the applicant against the GDSBPM, Kottam BO, *inter alia*, having regard to his past experience, which could not be complied with by the respondents, since by the time the aforesaid orders of this Tribunal was received by the respondents, the selection had already been over. In view of this, we dispose of this O.A. with a direction to respondents to consider the case of the applicant against a future vacancy in the post of GDS having regard to his past experience and other conditions of rules, provided that he applies for the same. There shall be no order as to costs.

(SWARUP KUMAR MISHRA)  
MEMBER(J)

BKS

(GOKUL CHANDRA PATI)  
MEMBER(A)