

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00300/16

Reserved on: 27.08.2019
Date of Order: 30.08.2019

C O R A M
HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Anjana Kumari, W/o Sri Mukesh Kumar, resident of Village & P.O.- Sahsi, PS-
Alauli, District- Khagaria.

.... Applicant.

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India, through the Chief Postmaster General, Bihar Circle, Patna.
2. The Postmaster General, Northern Region, Muzaffarpur.
3. The Director of Postal Services (NR), O/o The Postmaster General, Northern Region, Muzaffarpur.
4. The Superintendent of Post Offices, Begusarai Division, Begusarai.

.... Respondents.

By Advocate: - Mr. Arbind Kumar

O R D E R

Per Dinesh Sharma, A.M:- The undisputed facts of the case, very briefly summarized, are as follows:-

2. Following a vacancy to the post of GDSBPM Sahsi BO in account with Sakarpura SO arising on 25.03.1995 three applications were received. Though the applicant secured the second highest marks she was appointed in preference to one Shri Ram Udgar Yadav since he was not found to be fulfilling other conditions of landed property in his exclusive name. Shri Ram Udgar Yadav filed a case before this Tribunal (OA 710/1995) wherein this

Tribunal ordered the respondent no. 2 (The Post Master General) to dispose of the representation by a speaking order. The respondent no. 2 passed a reasoned and speaking order on 02.04.1996. On filing of another OA (No. 396/1996) Shri Ram Udgar Yadav, this Tribunal, vide order dated 25.10.2002 directed respondent no. 1 (The Chief Post Master General) to dispose of the representation by passing a reasoned and speaking order. Respondent no. 1 also rejected the representation of Shri Ram Udgar Yadav by an order dated 19.05.2003. Shri Ram Udgar Yadav again filed an OA before this Tribunal (No. 1028/2003). In this OA, the Tribunal, by its order dated 28.05.2010, directed the respondent to appoint Shri Ram Udgar Yadav after cancelling the appointment of applicant. The applicant filed a writ petition before the Hon'ble High Court, Patna in CWJC No. 10594/2010. The Hon'ble High Court upheld the order of the Tribunal in their judgment dated 09.07.2010. In this judgment, while expressing sympathy with the applicant, Hon'ble High Court directed the official respondents (UOI) therein that *".....if in future the petitioner applies for appointment against such or similar post in this Department or any other department of Union of India, she shall be granted age relaxation for the purpose of recruitment at least for 14 years which she has definitely spent in service on account of wrong rejection of claim of the applicant"*. In compliance of the order of the Tribunal dated 28.05.2010, which was confirmed by the Hon'ble High Court, the appointment of the applicant was cancelled by an order dated 10.07.2013 and Shri Ram Udgar Yadav was provisionally appointed in her place. It transpires that after this appointment, a criminal case was found pending

against Shri Ram Udgar Yadav and he was not allowed to join due to the pendency of this criminal case. Shri Ram Udgar Yadav had filed a contempt petition before this Tribunal (CCPA 46/2012) for not complying with the order of this Tribunal dated 28.05.2010. However, on 04.02.2016, this CP was dropped due to the criminal case still remaining pending against Ram Udgar Yadav. The applicant has now approached the respondents to appoint her back to the post in the light of the Hon'ble High Court's observation in CWJC No. 10594 of 2010. On their failure to oblige, she has filed the instant OA.

2. The respondents have confirmed the above facts in their written statement and have expressed their inability to accept the applicant's prayer. They have stated that Shri Ram Udgar Yadav was appointed following this Tribunal's orders which were confirmed by Hon'ble High Court. The criminal case on account of which he was not allowed to join is still pending at the local trial court at Khagaria. They have also stated that the Hon'ble High Court's direction was to consider age relaxation in case the applicant applied for appointment against such or similar posts in the Department. Since she did not do so, the reliefs sought by her in the OA cannot be granted.

3. We have gone through the pleadings and heard the arguments of the learned counsels of both the parties. This Tribunal cannot obviously behave like a pendulum and swing from one end to another depending upon what events take place in any individual case after a decision has been finally pronounced. The applicant was removed from her post following a

judgment of this Tribunal which was upheld by the Hon'ble High Court. We cannot now take a 'U' turn and now take an opposite direction only because of some new developments which took place much after the decisions of this Tribunal. Here, the applicant wants us to do that and has not even made the person going to be effected by that decision a party to this application. This, it was stated by the Ld. Counsel for the applicant, was because of that person (Shri Ram Udgar Yadav) having lost his contempt petition before this Tribunal. We do not think we can pass any order revising our earlier decision in this matter on these grounds.

4. If the applicant has any right, it is only to have her case sympathetically considered for relaxation of age as per direction of the Hon'ble High Court in CWJC No. 10594/2010. We, therefore, dispose of this OA by directing the applicant to apply, if she so desires, for any similar post with the respondent department, as suggested by the Hon'ble High Court. The respondents shall consider any such request in the light of Hon'ble High Court's direction within one month from the date of such application. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member