

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 981 of 2015

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

Naresh Kumar Mishra, aged about 44 years, Son of Late Narayan Mishra, At- Malapada, PO-Bolangir, Dist-Bolangir, At present working as GDSBPM in Chadheipanka GDS, At/PO. Chadheipanka, Dist-Sonepur.

.....Applicant.

VERSUS

1. Union of India, represented through the Secretary, Department of Posts, New Delhi.
2. Department of Post, India Office of the Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist-Khurda.
3. Assistant Director(Recruitment) Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda.
4. Superintendent of Post Offices, Bolangir Division, Bolangir, Dist-Bolangir.

.....Respondents.

For the applicant : Mr. S.K. Mishra, Ld. Counsel

For the respondents: Mr. M. R. Mohanty, Ld. Counsel

Heard & reserved on : 13.11.2019

Order on : 05.12.2019

O R D E R

Per Mr. Swarup Kumar Mishra, Member (J)

The applicant has filed this OA seeking the following reliefs:-

“(a) The Hon'ble Tribunal may graciously be pleased to allow the Original Application.

b) The order of rejection dated 05.03.2015 under Annexure-A/5 be quashed which was issued by the respondent no 4.

c) The Respondent No.3 and 4 may be direct to appoint to the applicant to the post of Postal Assistance Cadre as per approve order dated 22.02.1999 under Annexure-1 according to his qualification and service benefits within a stipulated period.

d) And further be pleased to pass any other orders/ directions as Hon'ble Tribunal deems just and proper.

e) And for this act of kindness the applicant as in duty bound shall ever pray. ”

2. The father of the applicant while working as Group-D under the Department of Posts retired on the ground of invalidation on 21.03.1998. His request for appointment of his son i.e. present applicant on compassionate ground in relaxations of normal recruitment rules, was considered and approved against the post of Postal Assistant vide memo dated 22.02.1999 (Annexure-A/1 by the CPMG Orissa(Respondent No.2). This was subject to satisfactory verification of documents and availability of vacancy under the compassionate appointment quota. There being no vacancy in the cadre of Postal Assistant, applicant was asked to submit his willingness if he is willing to work in any vacant Post of Gramin Dak Sevak in Bolangir Postal Division. However, the applicant was appointed vide order dated 23.12.2002(Annexure-A/3) as GDSBPM, Chadheipankha Branch Office. While working as such, he submitted a representation dated 16.07.2013 followed by a further representation dated 12.03.2014 to the Superintendent Post Offices, Bolangir Division (Respondent No. 4) praying for his appointment in Group D Post, as he is not able to manage a large family with the heavy burden.

3. Applicant had earlier approached this Tribunal in OA No. 972/14 which was disposed of on 24.12.2014 with a direction to Respondent No. 4 to consider the pending representation. Thereafter, Respondent No. 4 passed an order dated 05.03.2015 vide Annexure-A/5, rejecting the said representation inter-alia on the ground that the applicant has come up with a representation after expiry of about 12 years and therefore, his claim is belated one. The another ground of representation is that he has been appointed as GDS BPM, Chadeipank, SO in account with Ullunda SO on compassionate ground as per his willingness with a condition that he would have no other claim for appointment in his favour or against any other specific on regular vacancy.

4. Respondents have filed their counter, inter-alia mentioning that as per the Policy decision of Government of India wait-listed candidates approved for compassionate appointment discontinued during the year 2001. It was further averred by them that:-

“ the letter dated 04.09.2001, it was clearly mentioned that if he is willing to work in any vacant post of Gramin Dak Sevak in this Division and if so submit his willingness in writing, to this office along with the declaration that, with the acceptance of any GDS Post there would be no further claim for appointment on any special consideration against regular departmental vacancy. Accordingly the applicant Sri Mishra was appointed as GDSBPM Chadeipank Bo in account with Ullunda SO vide Memo No. A-163/02-03 dated 23.12.2002 with effect from 31.07.2002 A/N.”

It was further averred by the respondents that *“the facts stated in Para 4.2 needs no comment. That in reply to the averments made in para 4.3 of the OA, it is humbly submitted that case of*

the applicant was considered by the CRC held on 19.02.1998 for compassionate appointment in Postal Assistant cadre as per the prevalent rules and guidelines. In the memo No. RE/17-1/99 dated 22.02.1999, it was clearly mentioned that, “ the candidates should clearly understand that the appointment will be made subject to satisfactory of required documents and availability of vacancy in compassionate quota in accordance with DG(P) letter No. 24-4/97.SPB.I dated 20.10.1997 circulated vide C.O letter No. RE/17-1/76.Rlg dated 16.12.97. “ Further this is to submit that due to discontinuance of the waiting list of candidates approved for compassionate appointment., Shri Mishra was asked to submit his willingness or otherwise to serve in other Ministry/Department other than Department of Posts. Sri Mishra submitted his willingness to work in other Department. Accordingly a list 50 candidates approved for appointment in Group-C and 13 Nos. of candidates approved for appointment in Group-D cadre were sent to 39 different Departments for appointment in compassionate ground. The letter No. RE/17-76(Ruling) Corr dated 25.06.2001 is enclosed herewith as Annexure-R/1. The list containing the names of candidates is enclosed herewith as Annexure-R/2. On 25.07.2001 Directorate vide letter No. 37-16/2001-SPB dated 25.07.2001 intimated that the practice of circulating names of the deserving applicants to other Ministries/Departments has been discontinued. In the said letter it was decided to consider the case of the all such wait listed candidates for the vacant posts of Gramin Dak Sevaks if they are willing and eligible for the post. It was further mentioned that offer of GDS Posts to waitlisted candidates will be valid for one year and the scheme will be reviewed after one year. Copy of the said letter is enclosed herewith as Annexure-R/3.”

5. No interim order has been passed by this Tribunal, to the effect that one post of Postal Assistant should be kept vacant till disposal of the OA. The panel of wait listed candidates for the post of Postal Assistant has lost its validity and the same has not been extended either by the Department or by any order of this Tribunal. If the applicant had preferred to join as GDS and accordingly submitted his willingness before the respondents in writing, now he cannot turn back and claim for appointment as Postal Assistant nor this Tribunal, at this distant point of time, can round the clock back in the back grounds and circumstances of this case.

6. In view of the above, the OA is dismissed being devoid on merit with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

