

(2021) 09 OHC CK 0059

In the Orissa High Court

Case No : Writ Petition (Civil) No. 3293 Of 2014

Tapan Kumar Nayak

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 15-09-2021

Acts Referred:

Citation : (2021) 09 OHC CK 0059

Hon'ble Judges : Dr. S. Muralidhar, J;B.P. Routray, J

Bench : Division Bench

Advocate : J.Gupta

Final Decision : Dismissed

Judgement

1. This is the third round litigation concerning the Petitioner's claim for regular employment with the Office of the Superintendent of Post Offices, Cuttack where he was temporarily engaged by the Sub-Post Master, Basabati Stadium SO for supplying water to the staff.

2. Initially, the Petitioner had filed O.A.No.594 of 2006 before the Central Administrative Tribunal, Cuttack Bench, Cuttack(CAT) with a prayer for appointment against any post of GDSMC in that Division. On 28th August, 2006, the CAT disposed of the said application with a direction that the Petitioner's case would be considered on merit in accordance with law.

3. Thereafter C.P.No.1 of 2007 was filed when the above order was implemented. On 1st July, 2008 an order was passed by the Opposite Parties taking into account the Petitioner's candidature for different GDS posts for which selection/recruitment was made. However, the Petitioner could not be selected on merit in the said selection.

4. In the second round, the Petitioner filed W.P.(C) No.16551 of 2008 with a prayer to appoint him in any MTS/GDS Packer-Cum-MC vacancy. On 2nd March, 2009 the said writ petition was disposed of by this Court with the observation

that "as soon as the ban is lifted, the case of the Petitioner may be considered giving effect to the order of the Tribunal as aforesaid."

5. For non-compliance of the above order, the Petitioner filed CONTC No.916 of 2010. This was disposed of by this Court on 1st May, 2013 with a direction that "if the recruitment process is initiated for filling up of the MTS/GDS Packer-Cum-MC vacancies, the Petitioner will be granted liberty to make an application and the case of the Petitioner shall be considered, if he is otherwise found eligible."

6. Thereafter the Petitioner made a representation on 20th June, 2013 requesting that he may be appointed in any post in Cuttack City Division. By letter dated 27th June, 2013, the Opposite Parties informed the Petitioner that his candidature will be duly considered along with other candidates for the future MTS/GDS Packer-Cum-MC vacancies of the Division, if the Petitioner applied pursuant to the notification, strictly in accordance with rules and recruitment procedure in force of that time. All the recruitment units of the Division were also required to consider the case of the Petitioner if he applied for any post in response to the notification.

7. For some reason, unhappy with the above order, the Petitioner filed for the third time O.A.No.937 of 2013 before the CAT for quashing of the said order. The CAT has by the impugned order dated 28th January, 2014 held that the order dated 27th June, 2013 of the Opposite Parties was perfectly valid and has the dismissed the Petitioner's O.A.

8. In response to the present petition, it is pointed out by the Opposite Parties that the Petitioner was not a regularly appointed employee temporarily engaged for supplying water to the staff of the Barabati Stadium SO and had been paid from the contingent fund of the establishment. His candidature was duly considered for different posts as and when recruitment was made but he could not qualify. Accordingly, it is submitted that there is no violation of any orders passed either by the CAT or this Court.

9. Learned counsel for the Petitioner refers to an I.A.No.2925 of 2021 filed by the Petitioner stating that through the R.T.I. Act he has obtained information about the vacancies in the Division. He submits that although he is over-aged, i.e. currently he is thirty eight years, his representation made to the Assistant Superintendent of Post Office, Cuttack Division, Cuttack may be sympathetically considered.

10. The Court is unable to accept the above submission. There have been numerous orders already passed on the Petitioner's prayers from time to time both by the CAT as well as by this Court. It appears that the Opposite Parties have indeed complied with these directions and have considered the case of the Petitioner for appointment in the vacant post as and when the vacancies arose. No further directions are warranted. This Court is unable to find any ground made out for interference with the impugned order of the CAT. The prayer made in the application can also not be granted since clearly the Petitioner is over aged.

11. The petition is accordingly dismissed.

12. An urgent certified copy of this order be issued as per Rules.

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