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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION No.132 of 1987.

Date of decision : July, 11th, 1990.

Shri Narendra Kumar Nayak,  
S/o. Shri Madhusudan Nayak,  
Extra Departmental Branch  
Post Master, At/Po: Salapada,  
Via: Byree, Dist: Cuttack.

: Applicant.

- Versus -

1. Superintendent of Post Offices,  
Cuttack(S), Division, Cuttack.
2. Union of India,  
Represented by its Postmaster General,  
Crissa Circle, Bhubaneswar, Dist: Puri.
3. Shri Birakishore Nayak,  
S/o. late Sudarshan Nayak,  
Extra Departmental Branch  
Post Master, Salapada Post Office,  
At/Po: Salapada, Via: Byree,  
Dist: Cuttack.

: Respondents.

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For the applicant

: M/s. A.C. Mohanty, L. Pradhan,  
Advocate.

For the respondent.s

: Mr. T. Dalei, Additional Standing  
Counsel, Central.

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C O R A M:

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed to  
see the judgment ? Yes.
  2. To be referred to the Reporters or not? No
  3. Whether Their Lordship's wish to see the fair copy of  
the judgment ? Yes.
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- Handwritten signature*

J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN    The facts of the case are that the applicant worked as Extra Departmental Branch Post Master (E.D.B.P.M. ) , Salapada in the district of Cuttack since 2.7.1979. There was no allegation of misconduct for unsatisfactory work against him. Even so his service was terminated on 1.8.1987 vide order at Annexure-1 to the application. He has prayed that the order dated 17.12.1986 terminating his service vide Annexure-1 should be set aside and he should be reinstated in service. Alternatively, the applicant has prayed that his representation for appearing in the Recruitment Examination for the post of Postman/Village Postman and Mail Guard work should be considered and he should be allowed to appear at the examination scheduled to be held on 19th April, 1987. The Respondents in their counter have maintained that the applicant was appointed as E.D.B.P.M., Salapada in the vacancy <sup>caused</sup> ~~post~~ by removal of Birakishore Nayak from the Post of E.D.B.P.M., Salapada as a result of disciplinary proceeding. The same Birakishore Nayak moved this Tribunal against the order of the removal passed by the Departmental Authority in T.A. No.116 of 1986 (O.J.C. No.1051 of 1980). The Tribunal vide their judgment dated November, 24th, 1986 set aside ~~and~~ the order of removal of Birakishore Nayak from service and ordered ~~his~~ reinstatement as EDBPM, Salapada with effect from the date he was removed from service. The respondents have maintained that the ouster of the

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applicant from the service was a direct consequence of the implementation of the judgment of this Tribunal and as such the <sup>action</sup> ~~option~~ of the Department in this regard cannot be faulted.

2. We have heard Mr. A.C. Mohanty, learned Counsel for the applicant and Mr. Tahali Dalei learned Counsel for the Respondents and perused the relevant papers. Mr. Mohanty has vehemently contended that since the applicant has been removed from service without his fault he should be suitably rehabilitated. Mr. Dalei on the other hand said that there is no scope for any rehabilitation as the Recruitment Examination for the Post of Postman/Village Postman and Mail Guard is long over. Moreover the applicant does not have any eligibility to sit in such of examination. In this connection, he drew our attention <sup>to the copy of the 94T Directorate letter</sup> vide Annexure-R-7. On going through Annexure-R-7 we have come to the conclusion that Recruitment <sup>to</sup> of Class-IV test category posts is made on the basis of literacy test from the following categories: (1) Non test category Class-IV staff, (2) Extra Departmental Agents (3) Casual Labourers (4) Nominees of Employment Exchanges. As the applicant was <sup>a</sup> regular Extra Departmental Branch Post Master there is no bar against him taking such an examination as per Rules. We <sup>agree with</sup> ~~have agreed~~ Mr. Dalei that the Examination of 1987 is long over and as such the prayer <sup>however</sup> of the applicant cannot be entertained. We have no objection to allowing him to sit at any subsequent examination. Mr. Mohanty has further submitted that in view of the long years of satisfactory service put in by the applicant he

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should be adjusted against the post of E.D.B.P.M. or any other suitable post that is available or may be available in near future near about the post office of Salpada.

3. The order at Annexure-1 terminating his service cannot be set aside and the applicant's prayer in this regard is rejected.

4. Another submission made by Mr. A.C.Mohanty that at present the applicant is functioning as E.D.B.P.M. on account of one E.D.B.P.M. being put off duty. This judgment of ours would not affect nor would it cause discontinuance of the present service of the applicant. His case should however be considered for appointment against a future vacancy of E.D.B.P.M. or any other suitable post in view of his experience.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

*Heu*  
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MEMBER (JUDICIAL)

*Am*  
11.7.90  
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VICE-CHAIRMAN

