

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.No.14 of 1989.

Decided on 17th August, 1989.

Purna Chandra Sahu,
Son of Late Raghunath Sahu,
resident of village/P.O.Gondia Patna,
District-Dhenkanal: Ex-
Extra Departmental Delivery Agent
of Gondia Patna, Sub-Post office.

.... Applicant

Versus.

1. Union of India, represented by the Director General, Posts, New Delhi.
2. Superintendent of Post Offices, Dhenkanal Division, At/P.O./District- Dhenkanal.
3. Director, Postal Services, At/P.O./District-Sambalpur.
4. Assistant Superintendent, Dhenkanal Postal Sub-division, At/P.O./Dist- Dhenkanal.
5. Prasanta Kumar Nayak,
Son of Achuta Nayak,
Village-Natima, P.O.Mahimagadi,
District-Dhenkanal.

... Respondents

Mr. Pradipta Mohanty For Applicant

Mr. Tahali Dalai, Addl.
Standing Counsel(Central) For Respondent No.1 to 4

Mr. Ranjit Das For Respondent No.5.

CORAM:

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SEN GUPTA, MEMBER (JUDICIAL)

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 Lordships wish to see the fair copy of the judgment ?

JUDGMENT.

B.R. PATEL, VICE-CHAIRMAN. In this application filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for orders quashing the appointment of the respondent No.5 against the post of Extra-Departmental Delivery Agent (for short, E.D.D.A.) in the Gondia Patna Sub- Post office and for reinstating the applicant in the same post or in the near about post office with retrospective effect and all consequential benefits.

2. Briefly stated, the facts of the case are that the applicant was appointed provisionally as an E.D.D.A. at Gondia Patna post office with effect from 6.2.84. He continued as such till 19.10.88 when respondent No.5 who was then an Extra-Departmental Nightwatchman at Mahimagadi post office was appointed in his place on abolition of ^{the} post of Nightwatchman.
3. The respondents in their counter affidavit have maintained that the applicant was appointed only on provisional basis and he is not a regular employee and has no right to the post. According to the instructions issued by the Director General, Posts dated 14.12.87, a copy of which is at Annexure-R/2,

[Signature]

the posts of Night Watchman were abolished in all the post offices and the persons affected by abolition of such posts were adjusted in other suitable E.D. posts. Under these instructions, respondent No.5, on abolition of ^{the} posts of Night Watchman, was appointed in place of the applicant and as such the applicant had to vacate the post he had held till 19.10.88.

4. We have heard Mr. Pradipta Mohanty, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel for the Central Government and perused the papers. Both Mr. Mohanty and Mr. Dalai have drawn our attention to Annexure-R/2 which is a copy of the instructions of the Director General, Posts, dated 14.12.87. According to these instructions, the posts of E.D. Watchman were abolished. It has further been mentioned in the aforesaid instructions that none of the present incumbents of such posts will be discharged and that they will be absorbed in the other E.D. categories who performed postal functions as and when vacancies are available. The Department has, therefore, rightly adjusted respondent No.5 against the post of E.D.D.A. at Gondia Patna post office where the applicant was working as E.D.D.A. on provisional basis. Mr. Dalai has pointed out that the applicant was appointed as a substitute to start with though subsequently he was allowed to continue in the post. Whatever may be the status of the applicant when he was appointed as E.D.D.A., the fact remains that he continued as E.D.D.A. for over four years from 6.2.84 to 19.10.88. Mr. Mohanty drew our attention to the copy of the letter No.43-27/85-Pen (EDC & Trg) to Heads of Circles dated

12.9.88. The relevant portion of the letter is quoted below :

" Normally EDAs are to be recruited from local area and they are not eligible for transfer from one post to another but in cases where a post has been abolished EDAs are to be offered alternate appointment within the sub-division in the next available vacancy, in accordance with Directorate orders No.43-24/64-Pen dated 12.4.64 and further clarified in No.43-4/77-Pen dated 23.2.79. As per orders, those of EDAs who are held as surplus consequent to the abolition of ED posts are to be adjusted against the posts that may occur subsequently in the same office or in the neighbouring offices."

On this basis, we have disposed of several such cases where we have directed the competent authority to adjust the displaced employees against the vacancies arising in the neighbourhood. This case is not different from those cases. According to the latest instructions of the Director General, Posts, referred to above, and also the instructions dated 14.12.87 (Annexure-R/2), on abolition of posts of Night Watchman, the incumbents of such posts are to be absorbed as and when vacancies are available. Therefore, respondent No.5 should have been absorbed in any of the new vacancies instead of ~~replacing~~ the applicant. Since, however it has been done, we do not want to interfere in the orders passed by the competent authority and instead direct that the applicant who has been replaced in consequence of abolition of posts of ED Watchman referred to above, should be adjusted against a vacancy that is available or that will arise in the neighbouring offices of Gondia Patna post office. It is more so because the applicant was appointed to start with as a substitute and later he was allowed to continue in the post on provisional basis and only because of this, as Mr.Dalai has submitted, the

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department has adjusted respondent No.5 against the post held by the applicant. None-the-less it is the responsibility of the department to provide a suitable job to the applicant as the person who has been ultimately ousted as a result of abolition of post of night watchmen. Mr. Mohanty informed us that one such post is available in Mahamagadi post office. Mr. Dalai however submitted that steps have already been taken by the competent authority to fill up the vacancy at Mahimagadi post office and in fact applications have been invited and have since been scrutinised and a decision has already been taken to fill up this vacancy. He produced a copy of the letter written by the Superintendent of Post Offices, Dhenkanal Division dated 4.7.89 addressed to him. This letter reads as follows :

" Kindly refer to this office letter counter dated 23-2-89 regarding the above case and it is submit that the Asst. Supdt of Post offices Dhenkanal I/c Dhenkanal Sub-Dn, has already made selection among the candidates sponsored by the Employment Exchange for the post of Extra Departmental Delivery Agent Mahimagadi. "

In view of this, Mr. Dalai has submitted that it would not be possible for the department to adjust the applicant against the vacancy at Mahimagadi post office. We agree with Mr. Dalai. None-the-less as it is a policy of the department to adjust the candidates displaced by abolition of posts or reorganisation of post offices against the vacancies available or against the vacancies that are likely to arise in or near about the places where they have been working, we direct that the respondents should adjust the applicant against any vacancy that may arise in the category of the post he was holding as early as possible. The applicant should make an application to the Superintendent of Post Offices, Dhenkanal Division, Dhenkanal, respondent No.2 to this effect within three weeks from today.

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



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17.8.89

VICE- CHAIRMAN.

N. SEN GUPTA, MEMBER (JUDICIAL)

I agree.

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17.8.89

MEMBER (JUDICIAL)

Central Administrative Tribunal,
Cuttack Bench, Cuttack,

The 17th August, 1989/Jena, SPA.