

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 25 of 1990

Date of decision : 11.4.91

Rabindra Kumar Nayak ... Applicant

Versus

Union of India & others ... Respondents

M/s. Devanand Mishra,
Deepak Mishra, ... For Applicant
R.N. Naik, A. Deo &
B.S. Tripathy, Advocates

M/s. P.V. Ramdas,
B.K. Panda & D.N. ... For Respondents
Mohapatra, Sr. Standing
Counsel (Central)

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 *Allo.*
 3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes
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J U D G M E N T

N. SENGUPTA, MEMBER (J), The applicant has asked for a direction to respondents 4 and 5 not to terminate his services until regular appointment is made and that he should be absorbed on regular basis.

2. The applicant had worked as an ED Stamp Vender from 6.7.1988 to 4.1.1988 and after a break of 20 days i.e. till 23.1.89, he worked as such ED Stamp Vender in Cuttack GPO. The ED Stamp Vender of Arunodaya Market Sub-Post Office was promoted and as such the applicant was working as a substitute. On 20.7.89, the applicant petitioned to Respondent No.4 for appointing him on regular basis. Thereafter Respondent No. 4 appointed the applicant as ED Stamp Vender of Arunodaya Market Sub Post Office on 2.8.89, of course the appointment was said to be provisional and ~~had the~~ ^{to continue} ~~same~~ till regular appointment was made or upto 14.10.89 whichever ^{was} ~~is~~ earlier. The applicant has averred that the respondents are going to terminate his services though no regular appointment is going to be made.

3. After the filing of the application, one Laxmidhar Behera made an application for intervention and that was allowed and he has been arrayed as Respondent No.6 in this case. The case of Respondent No.6 is that he was working as a Night Watchman in the Arunodaya Market Sub Post Office since 1982 but the post was abolished, accordingly he was accommodated as ED Mail Career of Chhatra Bazar Sub Post Office. In view of the instructions of the Postal Deptt. with regard to accommodating retrenched personnel in

Member (J)

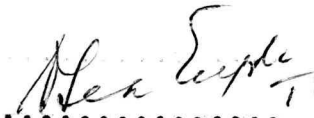
consequence of abolition of posts, he is entitled to be appointed as ED Stamp Vender, Arunodaya Market Sub-Post Office.

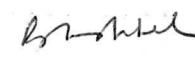
4. Mr. A.K.Mishra, Senior Learned Standing Counsel (CAT) wanted some time but we have not thought it fit, in the circumstances of the case, to allow him time to file counter etc.

5. We have heard learned Counsel for the applicant, Mr.A.K.Mishra, Learned Sr.Standing Counsel (CAT) for Respondent No.1 to 5 and Mr.P.V.Ramdas, Learned Counsel for Respondent No.6. It has not been disputed at the Bar that after the Sabur Committee, the posts ED Night Watchman^e were abolished. There is also no dispute that Respondent No.6 was working as ED Night Watchman in Arunodaya Market Sub-Post Office prior to the abolition of that post. Mr. Ramdas has invited our attention to the instructions and circular issued by the Deptt.of Posts in the matter of transfer of ED agents from one post to another. One of the instructions is that in cases where ED agents become surplus due to abolition of the posts and they are offered alternate appointments in a place other than the place where they were originally holding the posts, they could be allowed to be appointed in a post that may subsequently fall vacant in the place where they were originally working. As has been stated above, the Respondent No. 6 was working prior to the abolition of the post of ED Night Watchman, at Arunodaya Market Sub-Post Office and further that after the abolition of the post in Arunodaya Market Sub-Post Office he was adjusted against the post available

M. Sen Gupta

at Chhatra Bazar Sub-Post Office. In view of the instructions of the Deptt. of Posts referred to above, the Respondent No.6 has a right to come over to Arunodaya Market Sub Post Office as admittedly the post of ED Stamp Vender has fallen vacant. The learned Counsel for the applicant being faced with this situation has asked that as on the coming of the Respondent No.6 to Arunodaya Market, the post of EDMC would fall vacant at Chhatra Bazar Sub Post Office, he should be appointed against that post. It is not the function of this Tribunal to make appointments but, however, we would say that since the applicant has ^{rendered} some services to the Postal Deptt. by working as an ED Stamp Vender, on a making an application got appointment to the post of ED Male Carrier of Chhatra Bazar Sub Post Office, his ^{previous} ~~biggest~~ experience should be given due consideration and the preference that it deserves. The case is accordingly disposed of leaving the parties to bear their respective costs.


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MEMBER (JUDICIAL)


..... 11.4.91
VICE-CHAIRMAN



Central Administrative Tribunal
Cuttack Bench, Cuttack
April, 21, 1991/ B.K.Sahoo