

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No.432 of 1990

Date of Decision: 22.8.1994

Krishna Chandra Nayak

Applicant(s)

Versus

Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? no
 2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? yes

(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

[Signature]
(D.P.HIREMATH)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 432 of 1992

Cuttack this the 22nd day of August, 1994

C O R A M:

THE HONOURABLE MR.JUSTICE D.P.HIREMATH, VICE - CHAIRMAN
AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

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Krishna Chandra Nayak
S/o. Gobinda Nayak
At/PO:Bhimpur,
Via : Patrapur
Dist: Ganjam

Applicant/s

By Advocate M/s.Devanand Misra,
Deepak Misra,
R.N.Naik,A.Deo
B.S.Tripathy
P.Panda

Versus

1. Union of India, represented through its Secretary, Department of Posts, Dak Bhavan, New Delhi
2. Chief Post-master General Orissa, Circle, Bhubaneswar District:Puri
3. Senior Superintendent of Post Offices Berhampur Division, Berhampur Dist:Ganjam
4. Shri Nabin Chandra Padhi Ex-Extra Department Branch Post-master Bhimpur B.P.O., Bhimpur,Via:Patrapur Dist:Ganjam

Respondent/s.

By Advocate:Mr.Akhaya Mishra,
Addl.Standing Counsel ...

O R D E R

D.P.HIREMATH, VICE-CHAIRMAN: Heard Mr.B.S.Tripathy, learned counsel for the petitioner and Mr.Akhaya Kumar Mishra, learned Additional Standing Counsel(Central) for the respondents.

The admitted position is that the petitioner who was inducted as Extra Departmental Branch Post-master, Bhimpur

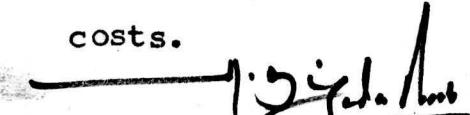
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as a substitute in the place of Respondent 4, when some departmental enquiry was initiated against him he was put off job. This induction was on 5.4.1990. It is also undisputed even though the enquiry was not over, Respondent 4 came to be reinstated with immediate effect from 7.11.1990, by the order of Senior Superintendent of Post Offices, Berhampur. It was also stated in that his reinstatement was without any prejudice to any action that may be taken against him on finalisation of the said enquiry. Only the consequence that the petitioner was the only substitute to act in the place of Respondent 4 had to give way when the actual incumbent of the post returned to duty. The present application came to be filed on 16.11.90 with a prayer that the Annexure-2 dated 7.11.90 be quashed and to direct Respondents 1 to 3 to allow the applicant to continue in the same post or in the alternative to direct them to adjust the applicant in any future vacancy that would arise in the locality or to adjust him at Bhimapur Branch Office as Respondent 4 cannot continue there as he is a Government servant.

2. As far as the disability of Respondent 4 being not competent to continue in the said post being government servant is concerned, ^{disability} in a later event which occurred in the year 1992, and we are not aware of the present position by virtue of the Government's order that a Teacher should be treated as Government servant. We are only concerned as to the position as on 7.11.90.

(10)

It is too much for the petitioner to say that order of Senior Superintendent of Post Offices, Berhampur, dated 7.11.90 reinstating Respondent 4 be quashed and he should be allowed to continue in the said post. While making this prayer the petitioner has forgotten to think for a moment that only substitute has no vested right in the post in which he was asked to work as substitute. In our view, therefore, these prayers for such substantive relief cannot be granted. As far as his prayer to direct respondents 1 to 3 to adjust him in some other similar post considering his services that he has rendered, it is for the respondents to take into consideration if a suitable representation is made by the petitioner. We cannot issue such a direction in this petition. Leaving liberty to the petitioner to make a representation to this effect we dispose of this petition. No order as to costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

22 Aug 94

B.K.Sahoo//


(D.P. HIREMATH)
VICE-CHAIRMAN