

Serial No. of Order	Date of Order	Order with Signature
2	20.11.91	<p data-bbox="494 304 1352 340">This case came up for admission on 19.11.1991.</p> <p data-bbox="304 371 1501 747">2. Shortly stated, the case of the applicant is that he feels aggrieved by the order dated 12.11.1991 passed by the Superintendent of Post Offices, Cuttack South Division vide off his memo No.F/Sidhal/91 putting the applicant from duty with immediate effect and directing the Overseer Mails to take over charge of the Branch Post Office, contained in Annexure-1.</p> <p data-bbox="320 778 1536 1556">3. In order to appreciate the facts leading to filing of this application it is necessary to state succinctly the history of this case. Previously the applicant was put off from duty vide memo No.F/Sidhal/89 dated 11.9.1989 and being aggrieved by this order the applicant filed an application under section 19 of the Administrative Tribunals Act, 1985, with a prayer to issue direction to the Respondent No.2 i.e. Assistant Superintendent of Post Offices, Jagatsinghpur not to put off the applicant from duty. This formed subject matter of O.A.372 of 1989 which was heard and disposed of by a judgment passed by this Bench on 8.3.1991. In paragraph 5 of the Division judgment the Bench observed as follows:</p> <p data-bbox="494 1587 1486 1692">"For the reasons stated above, we find no infirmity in the order putting the applicant off duty and the application is accordingly disposed of."</p> <p data-bbox="309 1723 1536 2232">In view of the order passed by the Division Bench it can be well construed that the order putting off the applicant from duty was sustained. Soon after the disposal of the said case order vide Annexure-1 has been issued in which it is stated that pursuant to the judgment of the Central Administrative Tribunal in O.A.372 of 1989 the applicant is put off from duty with immediate effect. At the cost of repetition we may say that the applicant prays to quash this order contained in Annexure-1.</p>

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4. We have heard Mr. Devashis Panda, learned counsel for the applicant on the question of admission. It was contended by Mr. Devashis Panda that there was no necessity of issuance of Annexure-1 and therefore it should be quashed. Since there is an allegation of misconduct on the part of the applicant, it is well within the discretion of the competent authority to either put the applicant under suspension (put off duty) or the competent authority may allow <sup>him</sup> to continue. But the competent authority having exercised his discretion against the applicant by ordering put off from duty, and this having been sustained by a Division Bench, we do not deem it fit and proper to sit over the judgment of another Division Bench.

In our opinion, the applicant has attempted to place the last straw on the camel's back which should not be permitted.

5. It was next contended by Mr. Panda that the applicant has filed a review application bearing No. R.A.14 of 1991 against the judgment passed in O.A.372 of 1989. We have heard this Review application today and we have dismissed the same.


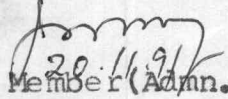
Therefore, we find no merit in this case which stands dismissed.

6. Incidentally it may be stated that we have seen from the records that the applicant has engaged one Shri Hrudananda Chaini as his substitute with effect from 1.9.1989. In our opinion, this was an illegal act on the part of the applicant, Hrushikesh Chaini because the applicant once having been put off from duty, had no authority to engage a substitute and <sup>soon</sup> ~~seen~~ after the pronouncement of the judgment, put off duty order being not <sup>illegal</sup> ~~authorised~~, Hrudananda Chaini cannot act as a substitute. Therefore, we direct that Shri Hrudananda Chaini is deemed to have ceased ~~to~~ as a substitute and the concerned Overseer Mails would take charge <sup>of the Post office</sup>.



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Order No. 2 dt. 20.11.91 contd.		<p>and in case there is nobody available to give charge, the concerned Superintendent of Post Offices should depute the Asst. Superintendent of Post Offices to effect an inventory and deliver charge of the Post Office to the Overseer Mails.</p> <p>7. A copy of this order be forthwith sent to Respondent No. 2 through a special messenger and a copy of this order be sent to Respondent No. 3 by registered post with acknowledgment due.</p> <div data-bbox="1110 872 1514 1094"><p> Vice-Chairman 20-11-91</p><p> Member (Admin.) 20-11-91</p></div>