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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

Original Application No. 168 of 1992
Cuttack this the 9th day of February, 1999

Rabindranath Mallick

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *No*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
9.2.99

9.2.99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.168 OF 1992
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CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THEHON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Rabindranath Mallick, aged about 38 years,
Son of Late Chaitanya Mallick,
Village- Radhaballavpur-Bandhatia,
P.O.: Bandhtia, P.S.Dhmnaagar,
District - Balasore - at present
working as Extra Departmental Branch Post
Master, Bandhatia Post Office,
Bandhati, Dist: Balasore

...

Applicant

By the Advocates : M/s.Devanand Mishra
R.N.Naik, A.Deo,
B.S.Tripathy

-Versus-

- 1. Union of India represented by the Secretary,
in the Department of Posts,
Dak Bhawan, New Delhi
- 2. Chief Post Master General,
Orissa Circle, Bhubaneswar,
Dist: Puri
- 3. Superintendent of Post Offices,
Bhadrak Division, At/Po: Bhadrak
District : Balasore,
- 3. Inspector of Post Offices,
West Sub-Division, Bhadrak,
Dist: Balasore

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Respondents

By the Advocates : Mr.A.K.Mishra,
Sr.Panel Counsel

...

ORDERMR.G.NARASIMHAM, MEMBER(JUDICIAL):

1. Applicant, Rabindranath Mallick, who was provisionally appointed as Extra Departmental Branch Post Master, Bandhatia E.D.B.O. in account with Dhamnagar S.O. with effect from 29.10.1976, in this application under Section 19 of the Administrative Tribunals Act, 1985, filed on 10.4.1992, wants the respondents be directed to allow him to join in his post and not to place him under put off duty.

His case is that as there used to be theft and house burnings continuously in the village Bandhatia and there being no accommodation available to run the post office in that village, he ran the post office in the border zone of village Bandhatia closed to the village Radhaballavpur. This was done with the knowledge/of Res.3 and 4. On 11.7.1991 Res.3 directed him to shift the post office to the village Bandhatia (Annexure-1). Thereafter he made attempts to secure accommodation in that village proper, but for his continuous sickness from 1.5.1991, i.e. prior to issue of Annexure-1, his wife was running the post office on substitute basis. From 29.2.1992 to 5.3.1992 his son Basanta Kumar Mallick also functioned as his substitute. On 5.3.1992, Res.4 rejected his application for leave and directed the substitute to hand over the charge to the applicant. As the applicant could not take charge due to sickness, Res.4 directed the substitute to handover charge to the regular B.P.M.(Annexure-2). Thereafter the post office was shifted to village Bandhatia by Res.4 with the help of

the regular B.P.M. On 3.4.1992 when the applicant went to join he was not permitted to join and learnt that he was placed under put off duty because of violation of the direction issued under Annexure-1 for shifting of the post office.

2. The respondents in their counter stated that as per method of recruitment prescribed by the department, E.D.B.P.M. is required to provide suitable rent free accommodation to convenient to general public for functioning of the post office in the post village. On being appointed the applicant provided a house in the post village Bandhatia and performed the postal work there. Subsequently he shifted the post office to his native village Radhaballavpur which is a separate revenue village without obtaining prior approval of Res.3. This apart, he displayed gross negligence in his duty and preferred to remain on leave time and again providing substitutes to man the post office work. Not only this, that he used to open and close the post office on his own sweet-will and pleasure. This was resented very much by the members of the public and that villagers who suffered a lot due to non-functioning of the post office in their village lodged a complaint against the applicant protesting shifting and for direction of reshifting of the post office from Radhaballavpur to Bandhatia. The villagers even threatened to launch Dharna in front of Res.3 vide their application dated 24.2.1992(Annexure-R/1). Res.4, i.e. S.D.I.(P) who rushed to the spot for inquiry; found that the applicant was on

leave and his son was working as his substitute. He even did not find the applicant in his village. The members of the public turned up and insisted for re-shifting of the post office to the post village. In fact, even prior to this the applicant was instructed to shift the post office to the post village by the Inspecting Officers repeatedly as evident from the inspection reports dated 25.7.1989, 20.10.1990 and 11.10.1990. However, the applicant did not obey this direction.

The applicant availed leave from 27.3.1990 to 25.9.1990 exceeding 180 days providing one Jadunath Mallick as substitute without taking prior approval of Res.4 as required under rules. He submitted medical certificate for that period granted by a private Doctor on 25.9.1990 and resumed duty on 26.9.1990. It has been his regular practice to avail leave on some ground or the other providing a substitute to work in his place without obtaining prior approval of S.D.I.(P). Similarly he availed leave from 30.4.1991 to 12.6.1991 allowing his wife to function as substitute without prior approval. Again from 29.2.1992 to 5.4.1992 he applied for leave providing Prasanta Kumar Mallick, his son as his substitute. This leave application was refused by Res.4 and the substitute was directed to hand over the charge to regular B.P.M. who took charge on 5.3.1992. The records of the Branch Office and stock records are yet to be handed over to this regular B.P.M. by the applicant.

As there is no separate Delivery Agent in this Branch Office, E.D.B.P.M. himself is to perform the delivery work. When the applicant remained on leave from

30.4.1991 to 12.6.1991 providing his wife as substitute, the delivery work of the B.O. ^{was} considerably affected. This in turn created resentment and discontentment among the public. During that period one Money Order for Rs.700 payable to one Sukantilata Biswal of Bandhatia was shown as paid on 5.6.1991 in the B.O. account. On receipt of a complaint from the payee the matter was enquired into and it could be ascertained that no such payment was made, but the applicant who was responsible for this irregular work committed by his substitute refused to credit this amount of Rs.700.

For all these irregularities, Res.4 placed the applicant under put off duty in memo dated 10.3.1992. This memo was attempted to be delivered at the residence of the applicant, but the applicant was found absent in his village. Hence the memo was sent by Regd. Post dated 30.3.1992 and the letter was received back with the remark that "Long Absent".

On these averments, the respondents prayed for dismissal of this application.

Applicant had not filed any rejoinder to the facts averred in the counter. The averment of the applicant that he had shifted the post office to Radhaballavpur with the approval of the authorities has been denied in the counter. Yet the applicant has not come up with any order in respect of such approval. He has also not filed any papers that his arrangement of substitutes either had the approval or post facto approval of the authorities. Hence in the absence of

rejoinder the facts mentioned in the counter are taken to be correct.

As per the rules, an E.D.B.P.M. has to arrange a rent free accommodation to run the post office in the concerned village where the post office is to run. His averment that he could not secure any accommodation in that village is not correct because the specific case in the counter that on his appointment he opened the post office in that village proper and ~~the~~ without prior approval shifted the office to Radhaballavpur; that he has been placed under put off duty on 10.3.1992 as averred in the counter has not been denied. Hence in the circumstance issuing direction to respondents to allow him to resume duty as E.D.B.P.M., Budhatia does not arise. Since he has already been put off duty, question of restraining the respondents from putting him off duty would not also arise.

In the result the application is held to be without any merit and the same is rejected, but without any order as to costs.

SOMNATH SOM
ICE-CHAIRMAN

9.2.99

B.K.SAHOO

2-2-99
(G.NARASIMHAM)
MEMBER(JUDICIAL)