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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 460 of 1992.

Date of decision : September 30, 1992.

Pitabas Das ...

... Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ..

M/s. Devanand Misra

Deepak Misra,

A. Deo, D. K. Sahu, Advocates.

For the respondents ...

Mr. Ashok Mishra,
Senior Standing Counsel
(Central)

...

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

...

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ?
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes.

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JUDGMENT

K.P.ACHARYA, V.C. With the consent given by counsel for both sides to finally dispose of the matter, this order is dictated in the presence of counsel for both sides and Superintendent of Post Offices, Cuttack North Division, Cuttack, Mr.K.C.Hota.

2. The applicant, Shri Pitabas Das is working as a substitute Extra-Departmental Branch Post Master, Bharatpur Branch Post Office under Kendrapara Head Office. The father of Pitabas Das will retire on superannuation with effect from 25.10.1992. The prayer of the applicant in this original application is to issue a direction to the Respondents to allow the applicant to continue in the said Post Office as Branch Post Master and further direction be issued to the respondents not to terminate the services of the applicant.

3. At the time of admission, I did not deem it worthwhile to keep the case pending and therefore, direction was issued to the Superintendent of Post Offices, Cuttack North Division to personally appear and apprise the Court. Mr.Hota has personally appeared and tells me that the father of the applicant would retire with effect from 25.10.1992 and thereafter steps will be taken for selecting a suitable person to be appointed as Extra-Departmental Branch Post Master of the said Post Office. Mr.Ashok Mishra, learned Senior Standing Counsel(Central) submitted that at this stage, it may not be proper on the part of the Court to give a direction to allow the applicant to continue indefinitely in the said post because regular

selection process has to be conducted and the suitable candidate is to be selected according to Rules. On the other hand, Mr. Naik, contended that the applicant has acted as a substitute on several occasions and there being no adverse report against the applicant he should be given permanent appointment.

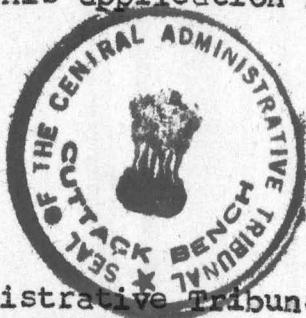
4. After giving my anxious consideration to the arguments advanced at the Bar I feel that there is substantial force in the contention of Mr. Ashok Mishra that steps should be taken for selecting suitable candidate according to Rules. The Case of the applicant should also be considered along with other candidates, if he has made an application. I hope and trust the appointing authority would also consider the experience gained by the applicant. But to allow the applicant to continue temporarily in the said post will not be just and proper because of the following reasons. Admittedly the applicant is a substitute. The Rule specifically envisages that the Postmaster who has given a substitute takes the full responsibility of any misconduct committed by the substitute. Since the permanent Postmaster will retire on superannuation and on his retirement there is nobody to take the responsibility of the conduct of the substitute, therefore, I do not feel inclined to allow the applicant to continue in the said post. However, somebody has to manage the Post Office. The applicant may approach the Superintendent of Post Offices with a prayer to consider his continuance in the Post Office and in case the Superintendent of Post Offices exercises his discretion in favour of the applicant, I have no objection. But I do not like to fetter the discretion of the Superintendent of Post Offices by allowing

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the applicant to continue. At the cost of repetition I may say I have no objection if the Superintendent of Post Offices uses ^{his} discretion in favour of the applicant.

5. Thus, this application is accordingly disposed of.
No costs.



Lopamudra Mohapatra
30.9.92

VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
September 30, 1992/Sarangi.