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

ORIGINAL APPLICATION NO.524 OF 1992
Cuttack this the 2nd day of July, 1999

Bidyadhar Lenka

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*.

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(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
Q.7.19

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

ORIGINAL APPLICATION NO.524 OF 1992
Cuttack this the 2nd day of July, 1999

CORAM:

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

Bidyadhar Lenka

Son of Bansidhar Lenka
Village/PO: Bachhalo

P.S.: Naugaon, District: Cuttack

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Applicant

By the Advocates : M/s.G.K.Mishra
G.Mishra
K.Swain, B.K.Raj
Miss.N.Pradhan

-Versus-

1. Union of India represented through
D.G.Posts, Dak Bhawan,
New Delhi-1
2. Chief Postmaster General,
Orissa Circle, Bhubaneswar-1
3. Superintendent of Post Offices,
South Division, Cuttack-I
4. Assistant Superintendent of Post Offices,
Jagatsinghpur Sub-Division, PO/PS:Jagatsinghpur
Dist: Cuttack

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Respondents

By the Advocates : Mr.A.K.Bose,
Sr.Standing Counsel
(Central)

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for direction to respondents to regularise his services in the post of Extra Departmental Mail Carrier, Bachhalo Branch Office and to treat the period from 31.3.1992 till the date of reinstatement as on duty.

2. The admitted facts of this case are that regular incumbent in the post of E.D.M.C., Bachhalo Branch Office one Khetra Mohan Parida was put off duty and a criminal case was started against him. He was convicted under Section 409 of the I.P.C. by the learned Sub-Divisional Judicial Magistrate, Jagatsinghpur. While Shri Parida was put under off duty, the applicant was provisionally appointed to manage the work of E.D.M.C. by bringing dak from Bachhalo to Naugaonhat S.O. with effect from 4.4.1991. But after his conviction before the learned Sub-Divisional Judicial Magistrate, Jagatsinghpur, Shri Parida went on appeal before the 1st Addl. Sessions Judge, Cuttack in Criminal Appeal No.123/91 in which in order dated 4.4.1992 he was acquitted under benefit of doubt. Because of this, the original incumbent had to be inducted to his original post and he was ultimately reinstated pending initiation of departmental proceeding against him. Accordingly the services of the applicant, who was appointed with effect from 4.4.1991 were dispensed with. In view of this the respondents have stated that as the applicant's appointment was provisional against put off duty vacancy, the original

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 incumbent being reinstated he had to vacate the post in question. On the above ground the respondents have opposed the prayer of the applicant.

3. We have heard Shri G.K.Mishra, learned counsel for the petitioner and Shri A.K.Bose, learned Senior Standing Counsel appearing for the respondents and also perused the records. Admittedly the petitioner was provisionally appointed against the put off duty vacancy as E.D.M.C. and on being reinstatement of the original incumbent, his service has been terminated. In consideration of the fact that the applicant was provisionally appointed and had worked for about more than a year as E.D.M.C., and that his services have been terminated for no fault of his, we direct that the respondents should consider him for any E.D. post lying vacant in case the applicant makes an application to that effect and he fulfils the eligibility criteria. While considering his candidature in response to any notification calling for applications in respect of any other E.D. vacancy, previous experience ~~experience~~ of the applicant as E.D.M.C., Bachhalo should be taken into account in accordance with the Full Bench decision in the case of **G.S.Parvati vs. S.D.I(P) & Others** reported in 1991-93 A.T.Full Bench Judgment Page 23.

Original Application is disposed of as above, but without any order as to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
 a. 7.19