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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 144 OF 1993

Cuttack, this the 27th day of August, 1999

Abhimanyu Shaw Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.

2. Whether it be circulated to all the Benches of the Central
Administrative Tribunal or not? No.

(G.NARASIMHAM)
(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
27.8.99

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ORIGINAL APPLICATION NO. 144 OF 1993

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....

Abhimanyu Shaw, aged about 33 years, son of late Raghunath Shaw, Telenga Sahi, PO/PS/District-Balasore ...Applicant

Advocate for applicant - Mr.T.Rath

Vrs.

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhavan, New Delhi.
2. Chief Postmaster General,Orissa Circle,At/PO-Bhubaneswar, District-Puri.
3. Superintendent of Post Offices, Balasore Division, At/PO/District-Balasore.
4. Assistant Superintendent of Post Offices, Incharge Balasore Sub-Division,At/PO/District-Balasore
.....
Respondents

Advocate for respondents - Mr.B.Dash
A.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

S.Som In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order at Annexure-7 and for a further direction to the respondents to consider the case of the applicant with filling up the post of EDMC-cum-Packer in Saheed Park Sub-Post Office.

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2. The applicant's case is that he has been working as part-time Waterman-cum-Sweeper in Balasore Head Office from 1.6.1986. According to Director General, Posts' circular dated 17.9.1990 at Annexure-2 part-time casual workers should be given preference for recruitment as ED Agents. In another circular dated 8.4.1991 copy of which is at Annexure-3 the Department of Personnel & Training has relaxed the age limit and requirement of sponsorship through Employment Exchange in case of casual workers recruited prior to 7.6.1988. One post of EDMC-cum-Packer fell vacant in Saheed Park Sub-Post Office and the petitioner applied for the same. He was given appointment on provisional basis in order dated 7.12.1992 and he joined the post on 7.12.1992. Apprehending that the applicant will claim regularisation after 180 days, in memo dated 18.3.1993 at Annexure-7 the earlier order passed provisionally appointing him was withdrawn. In the context of the above facts, the applicant has come up with the prayers referred to earlier.

3. The respondents in their counter have stated that consequent upon adjustment of ED Packer-cum-EDMC, Saheed Park Sub-Post Office of Balasore Division in another post under retrenchment scheme, the post of ED Packer-cum-EDMC, Sahid Park Sub-Post Office fell vacant on 4.12.1992. Before filling up of the said post on regular basis it was proposed to redeploy one ED post from Barabati Sub-Post Office. Accordingly a proposal was submitted to Chief Post Master General for according necessary approval. In the meantime Assistant Superintendent of Post Offices, Balasore Sub-Division directed the applicant in order dated 7.12.1992 at Annexure-6 to manage the work at the Sahid Park Sub-Post Office for a temporary period till further instruction. The Superintendent of Post Offices directed Assistant

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 Superintendent of Post Offices, in-charge Balasore Sub-Division in his letter dated 23.3.1993 to accommodate the EDMC, Barabati S.O. at Sahid Park Sub-Post Office. Accordingly, EDMC, Barabati S.O. joined as ED Packer in Sahid Park Sub-Post Office on 31.3.1993 and the applicant was relieved. The respondents have stated that the applicant was appointed in order at Annexure-6 not following any proper selection procedure and as per rules and therefore, he cannot be adjusted against the above post. It has also been stated that the applicant was never appointed as casual labourer in Balasore Head Post Office. He is working as contingent waterman-cum-sweeper on temporary basis for which also his name was not sponsored by Employment Exchange. The respondents have stated that there was no proposal to fill up the post of ED Packer-cum-EDMC in Sahid Park Sub-Post Office through fresh recruitment and therefore the applicant cannot be appointed to that post. On the above grounds, the respondents have opposed the prayers of the applicant.

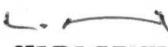
4. We have heard Shri T.Rath, the learned counsel for the petitioner and Shri B.Dash, the learned Additional Standing Counsel for the respondents and have perused the records.

5. As in the post of ED Packer-cum-EDMC, Sahid Park Sub-Post Office, another existing EDMC, who was working in Barabati Sub-Post Office and who had been declared surplus, has been adjusted, the applicant cannot claim to be regularised against that post. At the same time the applicant has been working as part-time Waterman-cum-Sweeper in Balasore Head Post Office from 1.6.1986. The respondents in their counter have not denied this. They have merely stated that he has never been appointed as a casual labourer. He has been working as a contingent worker. Even though the applicant is being paid out of contingency, he is working as a part-time casual worker and under the circular of Director-General of

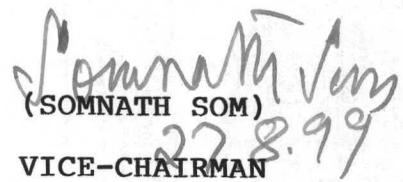
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Posts he would have preferential treatment over fresh candidates for being considered for ED post. He will also be entitled to age relaxation. But in any case for ED post there is virtually no age restriction for appointment. In consideration of the above and in view of the long service of the applicant even as a contingent worker, this Original Application is disposed of with a direction to the respondents that in case the petitioner applies for any ED post under the control of the respondents and in case he is eligible to hold the post, his case should be considered in accordance with the departmental instructions for such post.

6. In the result, the Original Application is disposed of in terms of the observation and direction above. No costs.


(G. NARASIMHAM)

MEMBER (JUDICIAL)


(SOMNATH SOM)
22.8.99
VICE-CHAIRMAN

AN/PS