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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

O.A.NO.459/93
Cuttack, this 17th day of June 1997

Niranjan Behera

....

Applicant

Vrs.

Union of India and others

.....

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? *Y*
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

Niranjan Behera
(N.SAHU)
17.3.97.
MEMBER (ADMINISTRATIVE)

B.S.JAI PARAMESHWAR
(B.S.JAI PARAMESHWAR)
22/6/97
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 459/93
Cuttack, this the 17th day of June 1997

CORAM:

HONOURABLE SHRI N.SAHU, MEMBER(ADMINISTRATIVE)
AND
HONOURABLE SHRI B.S.JAI PARAMESHWAR, MEMBER(JUDL.)

...

Niranjan Behera, aged about 28 years,
son of Bhabeswar Behera, At/P.O-Ambagaon,
Via-Ghantapada, Dist. Phulbani ... Applicant

Advocates for applicant -

M/s A.Deo, B.S.Tripathy,
P.Panda & D.K.Sahoo

-versus-

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhavan, New Delhi
2. Chief Post Master General, Orissa Circle, At/P.O-Bhubaneswar, Dist. Khurda.
3. Superintendent of Post Offices, Phulbani Division, At/P.O/District-Phulbani
4. Sub-Divisional Inspector (Postal), Boudhraj Sub-Division, At/P.O-Boudhraj, Dist. Phulbani
5. Branch Post Master, Ambagaon, At/P.O-Ambagaon, Via-Ghantapada, District-Phulbani Respondents

Advocate for Respondents - Mr. Ashok Misra.

O R D E R

N.SAHU, MEMBER(ADMN.)

In this Original Application the applicant challenges the letter dated 23.4.1993 issued by the Branch Post Master, Ambagaon (respondent no.5) asking the applicant to join as E.D.D.A. within three days of receipt as a document which would compromise his earlier claims of the letter. The applicant was duly selected as

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E.D.D.A. in Ambagaon B.P.O. and accordingly a letter of appointment dated 10.12.1991 was issued by respondent no.4. He joined the said post on 31.12.1991 (Annexure-2). Before him one Shri Chhanda Rana was discharging the duties of the relieved E.D.D.A., Shri Dusasan Rana, on stop-gap arrangement basis. Though the applicant joined on 31.12.1991, respondent no.5 still entertained Shri Chhanda Rana as E.D.D.A. The applicant was not allowed to enter into the Post Office by Shri Chhanda Rana and respondent no.5. He brought it to the notice of respondent no.4 who by his letter dated 11.2.1992 asked Shri Chhanda Rana to hand over the detailed charge to the applicant. This letter had no effect on Shri Chhanda Rana. The applicant made a representation before respondent no.3, but the latter turned a deaf ear. After all this, respondent no.5 issued a letter dated 23.4.1993 to the applicant to join his post within three days of receipt of the letter and submit his charge report before her for onward transmission to the higher authorities. It was claimed that even thereafter he was not allowed to enter into the Post Office by the said Shri Chhanda Rana.

2. In the counter affidavit it is stated that in response to a local notification dated 2.11.1991 four candidates applied for the post of E.D.D.A., Ambagaon B.P.O. including the applicant. The applicant was provisionally selected by respondent no.4. When the applicant was about to be inducted, the B.P.M. did not allow him to join as E.D.D.A. alleging his irregular selection. Shri Chhanda Rana also represented against the irregular selection of the applicant by letter dated 6.1.1992. It is stated in the counter that the applicant did not join as E.D.D.A in Ambagaon B.P.O. on 31.12.1991 and Annexure-2 is not a genuine document. After acceptance of the resignation of Shri Dushasan Rana, there was confusion. The applicant was due to take over the

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charge from the incumbent who worked as E.D.D.A. on 31.12.1991, but actually, according to the respondents, he did not assume the charge.

3. After hearing the learned counsels, it appears to us that there has been considerable injustice to the applicant. By letter dated 10.12.1991 issued by the S.D.I.(P), Boudhraj, the applicant was provisionally selected for appointment as E.D.D.A., Ambagaon B.O.: Annexure-2 shows that he had taken over charge as E.D.D.A. Annexure-3 is a letter from respondent no.4, the S.D.I.(P.), Boudhraj, reiterating that the applicant had been selected as E.D.D.A., Ambagaon B.O. with effect from 31.12.1991. The said letter was dated 11.2.1992. In the above circumstances, we have not found any material to justify dislodging this E.D.D.A., namely, the applicant. If there is any irregularity in the matter of selection and appointment of the applicant as E.D.D.A., respondent no.3 should have, by proper proceedings, cancelled the order and appointed somebody after observing the due process of law, but till then the rights of the applicant to the said post cannot be questioned or curtailed. After the resignation of Dushasan Rana, the applicant only was entitled to work as E.D.D.A. If the respondents doubted Annexure-2, they should have set it right forthwith. If Chhanda Rana prevented the applicant from joining, police assistance should have been sought. Unfortunately, respondents kept on accepting Chhanda Rana who was at best an intruder and at worst an imposter. By Annexure-R/11, the Superintendent of Post Offices, Phulbani, directed as under:

"You cannot keep a man engaged in the post of EDDA, Ambagaon B.O. without orders and for such unauthorised engagement action will be taken you.

Please therefore transfer charges to Shri Niranjan Behera, the selected EDDA forthwith failing which suitable disciplinary action will be taken."

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Still his orders were not complied with. Applicant's claim has to be allowed. Annexure-R/6 of Superintendent of Post Offices dated 17.3.1992 doubted the propriety of the applicant's selection, but the same was not processed. Even the reasons given there are not ex facie fatal to a selection made in accordance with the procedure. Thus the respondents are directed to allow the applicant to perform his duties as E.D.D.A. in Ambagaon B.O. within one week from the date of receipt of copy of this order and regularise the period from 31.12.1991 A.N. on the premise that for no fault of his he was prevented from assuming charge as E.D.D.A. He shall be allowed the benefit of seniority as well as salary from 31.12.1991. The O.A. is disposed of as above.

Narasimha Sahu,
(N.SAHU) 17.3.97,
MEMBER(ADMINISTRATIVE)

B.S.JAI PARAMESHWAR, MEMBER(JUDL.)
22/4/97