

9

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 684 OF 1993  
Cuttack this the 27th day of July, 1999

(PRONOUNCED IN THE OPEN COURT)

Gajendra Nath

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*.

27-7-99  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
27.7.99

8

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.684 OF 1993  
Cuttack this the 27th day of July, 1999

CORAM:

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

...

Gajendra Nath,  
S/o. Atendra Nath,  
At/Po: Kordega,  
Via: Biramitrapur  
Dist: Sundargarh

...

Applicant

By the Advocates : M/s.J.M.Mohanty  
S.K.Mohanty

-Versus-

1. Union of India represented through its Secretary, Department of Telecommunications  
New Delhi-110001
2. Asst.Superintendent of Post Offices,  
Rourkela East Sub-Division  
Rourkela-2, Dist:Sundargarh
3. Senior Superintendent of Post Offices,  
Sundargarh Division,  
Dist: Sundargarh
4. Branch Postmaster, Kordega  
Branch Post Office,  
Via: Biramitrapur,  
At/Po: Kordega, Dist:Sundargarh
5. Dhaneswar Mirdha  
S/o. Lohra Mirdha  
Vill/Po: Kardega  
Via: Biramitrapur  
Dist:Sundargarh

...

Respondents

By the Advocates : Mr.A.K.Bose  
Sr.Standing Counsel  
(Res. 1 to 4)

...

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN :

In this application, under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for regularisation in the post of Extra Departmental Mail Carrier, Karadega Branch Post Office, on the basis of Circular at Annexure-6.

2. For the purpose of considering the prayer made in this Original Application, it is not necessary to go into too many facts of this case. It is only necessary to note that applicant in his petition has stated that he has worked as E.D.M.C, Karadega Branch Post Office from 4.11.1992 till 21.11.1993 and had thus, completed more than 240 days. The Departmental Respondents, in their counter have pointed out that originally applicant worked as a substitute of the regular E.D.M.C., who was promoted to the post of Postman and took leave from the post of EDMC, for joining in his new post. In his leave vacancy, applicant worked as a substitute EDMC from 4.11.1992 to 28.2.1993. In continuation of the aforesaid period, applicant was provisionally appointed as EDMC w.e.f. 1.3.1993 pending regular selection in the order at Annexure-2. Subsequently, applicant's provisional appointment was terminated and through a regular process of selection, Respondent No. 5, namely Shri Dhaneswar Mirdha was selected. Applicant has made several averments with regard to the illegalities committed by the Departmental Respondents in selecting and appointing Respondent No. 5, as EDMC, Karadega BO but it

S. Som

10 11  
is not necessary to go into the details of that because applicant has not prayed for quashing the appointment of Respondent No.5. The main ground urged by applicant, with regard to the selection of Respondent No.5, is that Respondent No.5 is a clerk in the local school and without resigning therefrom, he has been appointed as EDMC. Applicant has further stated that without any show cause notice to him, his appointment has been terminated and Respondent No.5 has taken over the charge and is functioning in the post of EDMC, Karadega BO. Respondents in their counter have stated that the circular at Annexure-6, on which applicant bases his claim for regularisation on the ground of completing 240 days of work in the Department, is not applicable to his case. They have also stated that applicant has worked as EDMC provisionally only from 1.3.1993 and prior to that date, he had worked as a substitute. Therefore, he can not be regularised. On the above grounds, Departmental Respondents have opposed the prayer of Applicant.

3. Respondent No.5 was issued with notice but he has neither appeared nor filed any counter.

4. We have heard Mr.J.M.Mohanty, learned counsel for applicant and Mr.A.K.Bose, learned Senior Standing Counsel, appearing for the Respondents and have also perused the records.

5. The prayer of applicant, in this case is for regularisation in the post of EDMC, Karadega on the basis of circular at Annexure-6. On a reading of this circular, it is seen that this has been issued by the

Ministry of Home Affairs and it deals with regularisation of Casual employees in Gr.'D' posts in various Ministries and Departments of the Government of India. Applicant has claimed for regularisation in the post of E.D.M.C. which is not a Group 'D' post in the Postal Department. Moreover, this circular relates to regularisation of casual workers in Group 'D' posts those who have been recruited prior to 21.7.1989. Therefore, this circular has no application to the case of applicant. Moreover, it has been rightly pointed out by the learned Senior Standing Counsel Mr. A. K. Bose, ~~he has been Senior Standing Counsel~~ that applicant was provisionally appointed to the post of E.D.M.C., Karadega for certain periods and prior to that he was working as a substitute. Even granting the submissions of learned counsel that applicant worked from 4.11.1992, he has not worked as a casual employee of daily wage worker. From that point of view also, this circular is not applicable to him. In view of this, we hold that applicant has not been able to make out a case for any of the reliefs prayed for.

6. As regards averments and submissions with regard to illegality in appointing Respondent No. 5 to the post of E.D.M.C., Karadega, these are not relatable to the relief claimed by him in this original Application and therefore, these are not being taken up for consideration.

*S. Jom*

12

-5-

7. In the result, we do not see any merit  
in this Original Application which is accordingly  
dismissed, leaving the parties to bear their own costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
27.7.19

KNM/CM.