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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 182 OF 1994.

Cuttack, this the 11th day of October, 1999.

MAN MOHAN MISHRA.

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APPLICANT.

Versus.

UNION OF INDIA & ORS.

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RESPONDENTS.

FOR INSTRUCTIONS.

1. Whether it be referred to the reporters or not? *Yes.*
2. Whether it be referred to all the Benches of the Central Administrative Tribunal or not? *No.*

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
11.10.99.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 182 OF 1994.

Cuttack, this the 11th day of October, 1999.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.)

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Man Mohan Mishra,
Aged about 41 years,
S/o. late Raghunath Mishra,
Kanikarnika Chhak, Sub Office
Puri.

APPLICANT.

By legal practitioner : M/s. P. V. Ramdas, P. V. B. Rao, Advocates.

- VERSUS -

1. Union of India represented by the
SECRETARY, Department of Posts,
Dak Bhawan, New Delhi.
2. Chief Postmaster General, Orissa Circle,
Bhubaneswar, Dist. Khurda.
3. Senior Superintendent of Post Offices,
Puri Division, Puri.

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RESPONDENTS.

By legal practitioner: Mr. A. K. Bose, Senior Standing Counsel
(Central).

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O R D E R

(ORAL)

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the
Administrative Tribunals Act, 1985, applicant prays for a
direction to the Departmental Authorities to confer
temporary status on him, in pursuance of the scheme in
Annexure-3.

2. Short facts of this case are that applicant is working
as E.D.M.C. in Manikarnika Chhak SO, Puri. He has performed

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the duties of postman in Puri Head Post Office, as Casual labourer for many days. In all, he has worked for more than 240 days. He submits that because of this, in accordance with the scheme at Annexure-3, he is entitled to be conferred temporary status after which he would be getting the similar benefits as are given to regular Gr.D employees of the Postal Department. It is stated that earlier he had approached the Tribunal in Original Application No. 256/93 in which he had prayed for getting regularised in the post of postman. The said prayer of the applicant was rejected in order dated 8.7.1993, at Annexure-5. In the present application, his prayer is for conferment of temporary status. In the context of the above facts, the applicant has come up with the prayers referred to earlier.

3. Respondents in their counter have stated that number of leave reserved posts of postman provided in Puri Head Post Office is insufficient and taking into account the temporary vacancies caused due to leave, retirement or death of incumbents, and in order to manage the day to day work of the Postman, which is urgent in nature, ED employees are engaged on daily wage basis by providing substitutes in their regular ED posts. Respondents have stated that the applicant is working as ED Mail Carrier in Manikarnika Chhak Sub Post Office and he had to attend Puri Head Post Office twice a day in order to meet the emergent nature of work of postman arising because of dearth of hands in the post of postman. Applicant and some others have been engaged on casual basis on daily wage, after providing substitutes in their regular ED posts. Respondents have stated that the

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applicant and some others have completed 240 days. It is further stated that such substitutes engaged against absentees are not to be turned as casual labourers in accordance with DG P&T Circular dated 17.5.1989, at Annexure-R/3. On the above grounds, they have opposed the prayer of applicant.

4. We have heard Mr. P. V. Ramdas, learned counsel for applicant and Mr. A. K. Bose, learned Senior Standing Counsel (Central) appearing for the Respondents and have also perused the records. In the circular at Annexure-R/3 relied upon by the Respondents, it is no doubt provided that substitutes engaged in place of absentees are not to be designated as casual labourers but in fact the applicant has been designated as casual labourer for his engagement against the absentee post of Postman in Puri Head Post Office. Applicant has annexed two such orders of appointment at Annexures 1 & 2 in which it is clearly mentioned that the applicant has been engaged as casual labourer. It is further submitted by learned Senior Standing Counsel that in the earlier OA, the Tribunal gave a finding in its judgment dated 8th of July, 1993 that applicant has signally failed to prove that he has continuously worked for more than 240 days. It is also submitted by learned Senior Standing Counsel that in the present petition also there is no averment that in a continuous period of one year or in a calendar year or financial year, the applicant has put in 240 days of work as casual labourer engaged in place of absentee postman. It is

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further stated that the scheme, at Annexure-3 provides for conferring temporary status only on those casual labourers who have completed 240 days in a year by a certain date which is 29.11.1989. As the petitioner has been engaged as a casual labourer and has been designated as such in the order at Annexures-1 and 2, it can not be held that he is not a casual labourer. Notwithstanding Director General of P&T's Circular, the Departmental Authorities have designated him as a casual labourer but the fact remains that applicant is basically an ED employee. He is working as EDMC, Manikarnika Chhak SO and his status as an ED Employee does not go away on being appointed on a daily wage basis temporarily to handle the work of the Postman. ED employees are not casual labourers and therefore, he is not entitled to be conferred temporary status. Instructions provide that ED employees could be inducted in the regular Gr.D post. As the applicant has continued to be an ED employee, he can not be treated simultaneously as a casual labourer even though he has been designated as such in the appointment order at Annexures-1 and 2 and can not be conferred with temporary status. Moreover, applicant has also not indicated that within a calendar year, or financial year or within a period of 365 days he has actually completed 240 days of work.

5. In the result, therefore, we hold that the applicant has not been able to make out a case for any of the reliefs claimed by him in this Original Application. The Original Application is accordingly rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
10.99.