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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 739 OF 1995
Cuttack this the 08th day of February, 2000

Arabinda Kumar Oram

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 ?

(Signature)
(SOMNATH SOM)
VICE-CHAIRMAN

(Signature) 8.2.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.739 OF 1995
Cuttack this the 08th day of February, 2000

CORAM:

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

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Arabinda Kumar Oram
Vill : Khulia
PS: Sasan, Dist: Sambalpur

Applicant

By the Advocates : Mr.D.P.Dhalasamant

-Versus-

1. Union of India represented through its
Chief Post Master General,
Orissa, Circle, Bhubaneswar-751001
2. Senior Superintendent of Post Offices
Sambalpur Division,
Sambalpur 768 001
3. Post Master,
Sambalpur H.O.
Sambalpur 768 001

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By the Advocates : Mr.U.B. Mohapatra
Addl.Standing Counsel
(Central)

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ORDER

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MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, Arabinda Kumar Oram, who functioned provisionally as F.D.Stamp Vender at Sambalpur Head Office from 21.4.1987 to 30.6.1989 and again as substitute in leave vacancy from 23.8.1989 to 5.4.1990 and from 26.7.1990 to 31.10.1990, prays in this application for issue of direction to the respondents for his appointment to the vacant post of F.D.Stamp Vender, Sambalpur. There is no dispute that in the year 1995, post of Stamp Vendor at Sambalpur Head Office became vacant.

2- The case of the applicant is that since he worked for more than 240 days in consecutive years, he is entitled to be appointed against that available vacancy.

3- On 15.12.1995, the application was admitted and Res.3 was directed to consider the application of the applicant against the vacant post of F.D.Stamp Vendor, Sambalpur along with other eligible candidates while conducting selection for the post and that the result of the selection may be intimated to this Tribunal and no appointment to the above post would be made until further orders.

2f. In the counter the Department take the stand that as per rules, the selection will be made among all and that as per Circulars dated 20.2.1976 and 20.10.1984(Annexures-R/5 and R/6), casual Mazdoors and Part-time casual Mazdoors are eligible for absorption as regular Class-IV posts, provided that they have recruited through Employment Exchange and rendered a minimum of two years of continuous service, ^{and} at their option to F.D.Posts, provided that they fulfil all the prescribed conditions

for recruitment as E.D.employees.

No rejoinder has been filed by the applicant.

3. We have heard Shri D.P.Dhalasamant, learned counsel for the applicant and Shri U.B.Mohapatra, learned Addl.Standing Counsel appearing for the respondents. Also perused the records.

The applicant has been provisionally appointed, but not through any recruitment process. As per circulars under Annexures-R/5 and R/6, as stated above, he being not a casual labourer and/or daily rated Mazdoor, he will not be eligible for selection to be appointed unless he has necessary qualification required for the post of E.D.Stamp Vendor. The application is silent as to this qualification so also the necessary qualification for the post in question. Law is well settled that an E.D.Agent is not a casual labourer.

4. We have gone through the decision in Smt.Durga Bhowmick vs. Union of India decided by C.A.T., Calcutta Bench and reported in (1989) 11 A.T.cases 255. In this decision on the basis of the circular dated 29.3.1988 issued by the Post Master General, West Bengal Circle, it was held that even a substitute E.D.Agent working for not less than 240 days per year from or prior to 7.5.1995 to 13.11.1997 would be entitled to permanent absorption in future vacancy. This circular was issued by the P.M.G., West Bengal Circle, but not by the D.G.Posts and therefore, the instructions contained therein are not binding on the Postal Divisions inside the territory of the State of Orissa. Even that circular speaks of substitute E.D.Agents serving from or prior to 7.5.1995 till 13.11.1997, which is not the case of the applicant.

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In the result, we do not see any merit in this application and accordingly the prayer of the applicant for issue of direction to respondents to appoint him against the vacant post of F.D. Stamp Vendor, Sambalpur H.O. on the basis of his previous provisional experience and substitute experience is disallowed. There shall however, be no order as to costs.

Interim order passed on 15.12.1995 stands vacated.

(SOMNATH SOM)
VICE-CHAIRMAN

(G. NARASTIMHAM)
MEMBER (JUDICIAL)

B.K. SAHOO