

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 762 OF 1995

Cuttack, this the 28th day of August, 2001

Sri Sribash Kumar Dalai ...

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)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)

VICE-CHAIRMAN

22.8.2001

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CORAM:

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

.....
Sri Sribash Kumar Dalai, son of Sri Mahendra Kumar Dalai,
At/PO-Dhanupali, District-Sambalpur....Applicant

Advocates for applicant - Mr.P.K.Padhi
&
Mr.H.P.Rath

Vrs.

1. Union of India, represented through its Post Master General, Sambalpur Region, At/PO/Dist.Sambalpur.
2. Sr.Superintendent of Post Offices, Sambalpur Division, At/PO/Dist.Sambalpur-768 001.
3. Head Post Master, Sambalpur Head Post Office, At/PO/Dist.Sambalpur-768 001..

..... Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.CGSC

SOMNATH SOM, VICE-CHAIRMAN

O R D E R

In this O.A. the petitioner has prayed for a direction to Senior Superintendent of Post Offices, Sambalpur Division (respondent no.2) and Head Post Master, Sambalpur H.O. (respondent no.3) to regularise the services of the applicant in any ED post in Sambalpur H.O. or in any other post in Sambalpur town or in any Sub-Post Offices. Respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed. We have heard learned counsel for the parties. The learned counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in the case of Karnataka State Private College Stop-yap Lecturers Association v. State of Karnataka, 1992 Lab.I.C. 575, and the decisions of the Tribunal in OA Nos.695 of 1995 and 129 of 1996, and we have perused these decisions.

2. For the purpose of considering the petition it is not necessary to go into too many facts of this case. The case of the petitioner is that he has been working as substitute ED Stamp Vendor in Sambalpur H.O. against a vacant post from 1990 and is continuing till date. He has stated that three ED posts which are ED Stamp Vendor in Sambalpur H.O., EDMC, Sambalpur Court Post Office, and EDSPM, Badabazar EDSO are going to be filled up. He is a matriculate and he has worked for more than 240 days as ED Stamp Vendor and in the context of the above, he has come up with the prayer for regularisation.

3. The point made by the respondents is that the applicant is not a casual worker, full time or part time. Admittedly he has worked as a substitute and therefore, by working ~~working~~, for 240 days as substitute in different posts and with breaks, he is not entitled to be regularised by being treated as a casual worker.

4. A substitute is not appointed through any process of selection. A substitute is inducted in an ED post by the regular incumbent when he goes on leave. A substitute works at the risk and responsibility of the original incumbent and therefore, status of a substitute is totally different from the status of a casual labourer, full time or part time and therefore, a substitute is not entitled to be regularised on the ground of his having worked for more than 240 days as such. If that is allowed, then it is always possible for an ED employee to go on leave in short spells for a period of 240 days and induct one of his relations as a substitute thereby setting up a claim for regularisation of such substitute after he has put in 240 days of work. In Karnataka State Private College Stop-Gap Lecturers Association's case (supra), the

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petitioners before the Hon'ble Supreme Court were appointed by the Managing Committees in short spells with break of a day or two after every three months and continued as such for years. In consideration of this, the Hon'ble Supreme Court issued certain directions for regularisation of such stop-gap Lecturers. From the facts of that case it is clear that the decision does not provide any support to the case of the applicant before us. In the two O.As. disposed of earlier by this Bench, directions were issued to consider the cases of the applicants for regular appointment in case they apply and have the qualification for the post. In line with this, we dispose of this O.A. by directing respondent nos. 2 and 3 that in case the petitioner applies for an ED post for which he has got the requisite qualification, then his case should be considered strictly in accordance with rules, along with others.

5. With the above observation and direction, the O.A. is disposed of. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
 (SOMNATH SOM)

VICE-CHAIRMAN

AN/PS