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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 190 OF 1996
Cuttack, this the 24th day of May, 1996

Bighnara j Dakua

...

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.*



(N. SAHU)
MEMBER (ADMINISTRATIVE)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 190 OF 1996

Cuttack, this the 24th day of May, 1996

CORAM:

HONOURABLE SHRI N.SAHU, MEMBER (ADMINISTRATIVE)

...

Sri Bighnaraj Dakua, aged 55 years,
son of late Khali Dakua,
At/Post-Berhampur Head Post Office,
Dist: Ganjam (O) 760 001 Applicant

By the Advocate

Shri P.K.Padhi.

-versus-

1. Union of India, represented by its
Chief Post Master General (Orissa Circle),
At/Post-Bhubaneswar, Dist. Khurda-751 001.
2. Director of Postal Services,
Berhampur, O/O P.M.G. (Berhampur), Ganjam (O) 760 001.
3. Senior Superintendent of Post Offices,
Berhampur Division, At/P.O-Berhampur,
Dist. Ganjam (O) 760 001.
4. Senior Post Master, Berhampur Head Post Office,
At/Post-Berhampur, Dist. Ganjam.
5. Sub-Divisional Inspector (Postal),
Berhampur (South) Sub-Division,
At/Post-Berhampur,
Dist. Ganjam (O) 760 004.
6. Rehiman Shareiff (at present working
as Departmental Stamp Vendor),
At/Post-Berhampur Head Post Office,
Dist. Ganjam (O) 760 001 Respondents.

By the Advocates

Mr. Ashok Mohanty,
Sr. C.G. Standing Counsel
(For Respondents 1 to 5)
&
Mr. S.P. Mohanty
(For Respondent 6).

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ORDER

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AHU, MEMBER(ADMINISTRATIVE) The applicant Bighnaraj Dakua worked as a Postman at Lanjipalli Sub-Post Office. On account of ill-health he represented for a transfer to Berhampur Head Post Office under Rule 38 of P. & T. Manual, Vol. IV. He was accordingly transferred in the cadre of Postman and was posted as Departmental Stampvender by an order dated 19.9.1994. Because the transfer was at his own request, he became juniormost in the cadre of Postman in the Berhampur Head Post Office and lost his seniority of 21 years. Respondent No.6 Rehiman Sharaiff, who worked as Postman in the Berhampur Head Post Office dislocated his hip and underwent physiotherapy during September 1995 and thereafter. He was, according to the medical certificate, advised to do light duty. Shri Sharaiff was not in a position to ride a bi-cycle and even to walk properly and therefore, he was posted as Stampvender in place of the applicant by order dated 25.11.1995. Aggrieved by the said order, the applicant represented to the Senior Postmaster, Berhampur Head Post Office, stating his physical ailments of diabetes and blood pressure. He represented that he should be restored to the post of Stampvender. This was declined by the Senior Postmaster. Thereupon he appealed to the Senior Superintendent of Post Offices, Berhampur Division, on 4.12.1995. His appeal was allowed and he was re-posted to work as Stampvender and Respondent No.6 was directed to work as Postman. This time Respondent No.6 remained on leave and preferred an appeal to the Director of Postal Services who allowed his appeal and under his instructions, the Senior Postmaster, Berhampur Head Post Office passed an order on 17.2.1996 (Annexure-9) posting the Respondent No.6

as Stampvender and the applicant was again transferred as Postman which is the order impugned in this Original Application.

2. I have carefully considered the submissions of Shri P.K.Padhi for the applicant, Shri Ashok Mohanty, Sr. Standing Counsel for Respondents 1 to 5, and Shri S.P.Mohanty for Respondent 6. The fact remains that the applicant was transferred to Berhampur Head Post Office under Rule 38 on the ground of ill-health and therefore he sacrificed 21 years of his seniority. He did this only to be able to work in a sedentary position. The job of a Postman is an arduous and extremely tiresome job and the applicant because of his ill-health and advanced age cannot undertake the said job. The grievance of Respondent No.6 may be genuine, but there is no finding that the grievance of the applicant is either contrived or less serious or less urgent. Senior officers of the Postal Department have earlier allowed the applicant's appeal and posted him to a stationary job. I do not intend to disturb the present posting of Respondent No.6 as Departmental Stampvender because on medical report he is orthopaedically ill-equipped to do arduous job of a Postman. But at the same time the postal authorities cannot and shall not re-transfer the applicant to do the job of a Postman which he had forsaken for very genuine reasons. To do so would be going against the very orders of senior officers of the Postal Department who have twice directed the applicant to do the job of a Departmental Stampvender. When he had foregone his seniority to work as a Stampvender in the background of his failing health and advanced age, to transfer him again to do the same old job of a Postman is against record and principles of natural

justice. If there is no second post of Departmental Stampvender at the Berhampur Head Post Office, the Respondent No.3 in consultation with the Respondent Nos.1 and 2 shall create one more such post by diverting one out of the existing posts within a period of six months and till such time shall reorganize the work in the post office in such a way that the applicant shall get either a sorting job or an assisting job in the premises of Berhampur Head Post Office so that there would be no need for him to move out of the premises as he used to do as Postman. Respondent Nos. 1 and 2, the Chief Post Master General and the Director of Postal Services shall assign such functions ^{of only a desk job.} to one of the existing posts for an ailing Postman like the applicant who has sacrificed all his seniority only to be able to survive and eke out a living till they are able to organize one more post of Departmental Stampvender. A sense of compassion must permeate dispensation of orders to such a person as the applicant. Annexure-9 to the extent it relates to the applicant is quashed and the application is disposed of giving the above directions.

Parties to bear their own cost.

N. Sahu
(N.SAHU) 24/5/86
MEMBER (ADMINISTRATIVE)

A.Nayak, P.S.