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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 383 OF 1996.
cuttack, this the 17th day of January 2003

Debendra Chandra Muduli. Applicant.

:Versus;

Union of India & 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? Yes

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

B.N. Som
(B.N. SOM)
VICE-CHAIRMAN

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(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 383 OF 1996.
Cuttack, this the 17th day of January 2003

C O R A M:-

THE HONOURABLE MR. B.N.SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDL.).

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SHRI DEBENDRA CHANDRA MUDULI,
S/o. Sadharam Muduli,
At: Dalabeda,
Po: Sodambo,
Via: Chitrakonda,
Dist. Malkangiri.

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APPLICANT.

By legal practitioner: Mr. P.K. Padhi, Advocate.

-Versus-

1. Union of India represented by its Chief postmaster General (Orissa), At/Po: Bhubaneswar, Dist. Khurda.
2. Senior Superintendent of Post Offices, Koraput division, At/Po: Jeypore (K), Dist. Koraput.
3. Sub-divisional Inspector (Postal), Malkangiri Sub division, At/Po/Dist. Malkangiri.

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RESPONDENTS.

By legal practitioner: Mr. A.K. Bose, Senior Standing Counsel
Mr. B. Dash, Addl. Standing Counsel.

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O R D E RMR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :-

Sri Debendra Chandra Muduli has filed this Original Application, under section 19 of the Administrative Tribunals Act, 1985 assailing the order of Respondent No.3 under Annexure- 2 dated 10.5.1996 calling upon him to hand over the charge of the Office of the EDBPM of Jodambo Branch Post Office to the O/S mails, Malkangiri.

2. The Applicant has stated that he was appointed as Extra Branch post Master of Jodambo Branch Post Office with effect from 04-02-1991 and had worked for five years without any break. The order of the Respondent No.3, therefore, calling upon him to hand over the charge of the post, without assigning any reason thereof, or without giving him any compensation for such termination is violative of principles of natural justice. He has, therefore, prayed the Tribunal to quash the order of Respondent No.3, under Annexure-2 dated 10.5.1996 and to direct the Respondents to allow the Applicant to continue as EDBPM, Jodambo Branch post Office.

3. The Respondents in their counter have denied

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the allegations stating that the Applicant was never appointed as EDBPM, Jodambo Branch Post Office, but he was appointed as a substitute on 4-2-1991 as a stop gap arrangement till regular arrangement for filling up of the said post was completed. They have, however, admitted that the Applicant had applied for the post in response to the Notification issued by the Respondents No.2 but he being the lone applicant, no selection was made for the post. Thereafter, several attempts were made by Respondent No.3 to fill-up the post but to no avail. Seeing no other way, the Respondents decided to relieve the Applicant first from the post and then to advertise the post again. It has been averred by the Respondents that the Applicant did not possess the minimum eligibility criterion as he is non-matriculate. They further submitted that as the Applicant was sought to be relieved in order to enable the Respondents to fillup the post in a regular manner through proper selection process, question of affording opportunity to the Applicant did not arise. Further it has been averred by the Respondents that the Applicant having not been sponsored by the Employment Exchange, could not have been continued in this post.

4. We have heard Mr. P.K. Padhi, Learned Counsel for the Applicant and Mr. A.K. Bose, Learned Senior Standing Counsel for the Union of India, appearing for the Respondents and perused the records and given our anxious thought to

the issues raised in this case.

5. Having regard to all the facts and circumstances of the case, we are convinced that the order of Respondent No.3, under Annexure-2 dated 10.5.1996 directing the Applicant to hand over the charge of the Office where he had worked for five years unceremoniously is violative of the principles of natural justice. A person under whose care the Respondents had put Jodambo Branch Post Office for five years was not informed of the reason for termination of his service. It is now a well established principle of natural justice that no one should be condemned before he is heard.


It is a stale argument on the part of the Respondents to say that the Applicant was considered good as a substitute EDBPM and that also for five long years but was not found good enough on permanent basis. The golden logic of the Respondents is that the Applicant does not have the educational qualification of matriculation for the post. If that standard of educational qualification is a sine qua non for discharging the responsibility of a Branch postmaster, the Respondents have to answer how the Applicant was able to discharge his duties for all these Years inspite of the fact that he did not have the requisite educational qualification. The very fact that workwise the Respondents had found nothing wrong with the Applicant makes


their action of termination of service without notice bad in law. From the facts of the case, it appears that though the Applicant was not possessing the requisite educational qualification, he was educated enough to be able to manage the financial and accounting functions of the post office and had appropriate inter personal relationship qualities to deal with the public. The shortfall in educational qualification he had made good by his on job performance. Had that been not so, he could not have served for five years to the satisfaction of the community in his area. Surely, there would have been serious public complaints; about which the Respondents had not made any mention. Having regard to these facts of the case, we would like to observe that it is high time that they clearly propounded their policy about the engagement of substitute in a Branch Post Office. We see lot of merit in the existing policy of engaging substitute for making short term arrangement, but what is needed is to prescribe the educational and other eligibility conditions of a substitute, so that in case a substitute is retained for a long period, he can be absorbed on a regular basis without creating any problem in any way. The rural postal system which is now called GRAMIN DAK SEVAK needs to have enough flexibility and calls for pragmatism in running this system. It need not be given all the ^{stappling} ~~shopping~~ of appointments in Govt. for

regular jobs; because of the qualitative difference between a regular job in Government and job of a GDS. In prescribing job qualifications for GDS, it is necessary to take care of the requirements of the society in the given area, the local practices, the affinity of the functionary with the local people and local conditions to make it a credible system in the rural set-up. In other words, the system of recruitment and maintenance of GDS needs to be tailor made to the subjective conditions of the respective local areas rather than making it a hide bound straight jacket system of appointment in Government. GDS will fail if it is not flexible and if it does not interface with the local conditions. If one goes through the history of rural postal system in India as set up in the nineteenth century and taken through the twentieth century, one will find that the system has thrived on the qualities being flexibility/recognition of the local interests, pragmatism, drawing on local talents for doing the job etc. Through this order we therefore, call upon the Respondent No.1 to reappraise the method of recruitment and selection of GDS keeping in view the ground realities in running this system and also the objectives of the Gramin Daka Seva.

6. Having regard to these facts and circumstances of the matter and the requirement of justice and fairplay, we find it difficult to persuade ourselves to accept the situation where a person having served in a post for five

years, without any blemish could be summarily thrown out of his job, as has been done in the case by the Respondents No.3 by his order at Annexure-2. Under the circumstances, the said order under Annexure-2 dated 10.5.1996 must be quashed and we order accordingly and allow the Application. We also order that the Respondents should regularise the services of the Applicant under the provisions of the Recruitment Rules after relaxing the condition of minimum educational qualification as set out in the rules on the strength of his years of experience. The Applicant, should, however have to fulfil other eligibility conditions for regular appointment. This Original Application is accordingly disposed of, leaving the parties to bear their own costs.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

KNM/CM.