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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A. NO. 886 OF 1996

Cuttack, this the 12th day of May, 1997

Sri Narendra Kumar Parida

....

Applicant

Vrs.

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 CAO Central Administrative Tribunal or not?

(SMT. LAKSHMI SWAMINATHAN)
MEMBER (JUDICIAL)

Jayanthi Nirm
(S.SOM)
VICE-CHAIRMAN

12.5.97

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.886 OF 1996
Cuttack, this the 12th day of May 1997

CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN
AND
HONOURABLE SMT. L.SWAMINATHAN, MEMBER(JUDICIAL)

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Sri Narendra Kumar Parida
aged about years
c/o Sri Gadadhar Parida,
At/P.O-Chintamaniswar,
Bhubaneswar-6,
Dist.Khurda

.....

Applicant

Vrs.

1. **Union of India**,
represented by the Secretary to Government of India,
Department of Post, Dakbhaban, New Delhi.
2. Chief Post Master General,
Orissa Circle, Bhubaneswar, Dist.Khurda.
3. Senior Superintendent of RMS,
North Division, Cuttack.
4. Superintendent of Postal Division,
Bhubaneswar
5. Sub-Record Officer RMS(North) Division,
Bhubaneswar

.....

Respondents

Advocates for applicant - M/s B.B.Patnaik, S.Mohanty
& B.Behere.

Advocate for respondents - Mr. B.K.Bal.

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O R D E R

S.SOM. VICE-CHAIRMAN

In this application under Section 19 of the
Administrative Tribunals Act, 1985, the applicant, claiming to be a

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Daily Mazdoor working in R.M.S., Bhubaneswar, has prayed for the following reliefs:

- (i) He should be adjusted against a regular vacancy;
- (ii) Order dated 1.10.1996 of Chief Post Master General (Annexure-6) rejecting his representation should be quashed;
- (iii) The three posts of Extra Departmental Mailman transferred from R.M.S., North Division to Bhubaneswar Postal Division should not be filled up till the disposal of this Application; and
- (iv) The applicant should be given Rs.36/- as minimum wage instead of Rs.25/- per day which he is getting at present.

2. The facts of the case, according to the applicant, are that he started working as a substitute Extra Departmental Mail Man (hereinafter referred to as 'E.D.M.M.') in 1984 in R.M.S., North Division, Bhubaneswar, on monthly wage basis and has been continuing as such till today. Till 1990 he was paid monthly wage and his name was at serial no.11 of the revised duty particulars of E.D.S.S.(Outsiders) against the vacancies of E.D.M.M. for the month of May, 1989. His case is that persons at serial nos. 1 to 10 in Annexure-1 got regular appointment and the work of E.D.M.M. was stopped and he continues to work as a Daily Mazdoor getting Rs.25/- per day by virtue of an order at Annexure-2 in which his name is against serial no.1. Three posts of E.D.M.M. were transferred from R.M.S., North Division to Bhubaneswar Postal Division which deprived him of being considered for

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regularisation. The applicant filed a representation dated 15.4.1996 before the Senior Superintendent, R.M.S., North Division, Cuttack, for his regularisation, but as that was not considered he came up before the Tribunal in the present application. In order dated 24.12.1996 a direction was issued to the Chief Post Master General for considering the representation of the applicant for his regular appointment in accordance with the instructions of Director-General, Posts, communicated in his letter dated 6.6.1988. Accordingly, the Chief Post Master General considered the representation of the applicant, gave him a personal hearing, and rejected his representation saying that there is no provision in the departmental rules to appoint outsiders as E.D.M.M. without following recruitment procedure. In the light of the above facts, the applicant has come up with the prayers referred to earlier.

3. Respondents in their counter have pointed out that the applicant is not even a casual labourer. His services have been utilised on daily wage basis from 1984 as and when there is work and the departmental rules do not provide for directly recruiting outsiders to Group 'D' posts in the Department.

4. We have heard the learned lawyer for the applicant and the learned Additional Standing Counsel appearing on behalf of the respondents. As per Director-General, Posts, letter No. 17-141/88-EDC & Trg. dated 6.6.1988 (published at pages 86 & 87 of Swamy's Compilation of Service Rules for Extra-Departmental Staff in Postal Department, Sixth Edition-1995) Group 'D' posts in the Postal Department can be filled up in the following order of preference:

- (a) Non-test category
- (b) Extra-Departmental employees
- (c) Casual Labourers
- (d) Part-time casual labourers

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It is submitted by the learned lawyer for the applicant that the applicant comes under category (c) as a casual labourer. In view of the averments in the counter that his services were utilised on daily wage basis as and when there was work in the Department, he could at best come under category (d) as a part-time casual labourer. It is seen from Annexure-1 that originally he was working as an "outsider", a category not mentioned in Rule 25 and subsequently as a Mazdoor on daily wage basis. It has been correctly held by the Chief Post Master General that there is no provision in the departmental rules to recruit outsiders directly to Group 'D' posts in the Department. Even if he is taken as a casual labourer, he comes under the ^{second} lowest category and there is no scope for his absorption as a regular employee. As such his prayer for absorption as a Group 'D' employee is held to be without any merit and is rejected.

5. The applicant has also claimed that instead of paying him Rs.25/- as daily wage, he should be paid Rs.36/- as a semi-skilled worker in accordance with the Government of Orissa, Labour & Employment Department notification dated 14.8.1996 (Annexure-8). There is considerable merit in this prayer. The departmental authorities are bound to pay the minimum wage as may be declared from time to time by the State Government. In this notification at Annexure-8 minimum wage has been fixed from Rs.30/- to Rs.48/- per day for unskilled to highly skilled employees. It is, therefore, ordered that the respondents should categorise the work of the applicant appropriately and pay him the appropriate wage depending upon the categorisation

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of his work as unskilled/semi-skilled/skilled/highly skilled. It is to be noted that even as an unskilled employee, in the minimum he is entitled to get Rs.30/- as against Rs.25/- per day which he is allegedly getting now.

6. In consideration of the above, the respondents are directed to fix the daily wage of the applicant for the days he is given work, at Rs.30/- or Rs.36/- per day according to the categorisation of his work and the difference in the wage should be paid to him from the date of coming into force of the notification of Government of Orissa fixing the new minimum wages.

7. In the result, the Original Application is allowed in part, but there shall be no order as to costs.

Lakshmi
(SMT. LAKSHMI SWAMINATHAN)
MEMBER(JUDICIAL)

Swaminathan
(S. SOM)
VICE-CHAIRMAN 12.5.97