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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No. 148 of 1998
cuttack, this the 30th day of Sept, 2003

Pramod Kumar Panda.

....

Applicant.

-Versus-


Union of India & others.

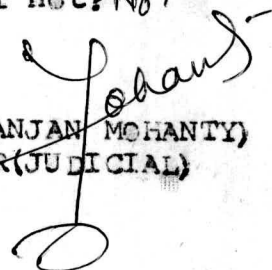
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Respondents.

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.


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

original Application No. 148 of 1998
Cuttack, this the 30th day of Sept', 2003

CORAM:

THE HONOURABLE MR. B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR. MANORANJAN MOHANTY, MEMBER (JUDL.).

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Pramed Kumar Panda, Aged about 27 years,
Son of Nabin Chandra Panda, Qrs. No. C/270,
Fertilizer Township, Rourkela-7,
District-Sundergarh.

.... Applicant.

By legal practitioner: M/s. B.S. Tripathy,
M.K. Rath,
Advocates.

-Versus-

1. Union of India, represented by the
Chief Postmaster General, Orissa Circle,
At/Po: Bhubaneswar, Dist. Khurda.
 2. District Employment officer,
Rourkela-12, Dist. Sundergarh.
 3. Sub-Divisional Inspector of Posts,
West Division, Rourkela-2,
Dist. Sundergarh.
 4. Assistant Superintendent of Post offices,
East Division, Rourkela-2,
Dist. Sundergarh.
- Respondents.

By legal practitioner: Mr. K. C. Mohanty,
Government Advocate for Res. No. 2;

Mr. S. B. Jena,
Additional Standing Counsel
for Respondents 1, 3 and 4.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :-

The grievance of the Applicant in this original
Application under Section 19 of the Administrative Tribunals
Act, 1985 is that even though he has been serving the

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Department since 1990 till date without any break, yet the Respondents are taking steps to fill-up the post of Extra Departmental Mail Career-Cum-Extra Departmental Packer (in short EDMC-Cum-ED Packer), in different post offices under Rourkela Head post office, without considering his case and, therefore, he has prayed, in this original Application for direction to the Respondents to allow him (Applicant) to participate in the Selection/interview for the post of EDMC-Cum-ED Packer and for directing the Respondents to give him appointment in the post of EDMC-Cum-ED Packer in any vacant post by taking into consideration his past experiences. By way of seeking interim relief, the Applicant had sought for a direction to the Respondents to allow him to participate in the Selection/interview for the post of EDMC -Cum-ED Packer under Respondents 3 and 4.

2. The Respondents 1, 3 and 4 have filed their joint counter stating therein that the Applicant did not work in any particular post continuously since 1990 till date and whenever, he worked; in different spells, as a substitute; which were not a regular appointment and that a substitute has no right to claim any regular appointment. It has further been averred in the said counter that to fill-up some post of EDAs, the Respondent No. 3 had placed requisition with the local Employment Exchange but the name of the Applicant was not sponsored from the Employment Exchange.

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It has also been pointed out by the Respondents that there is no Rule/Instruction to give any weightage to the experience gained by a substitute, during selection for regular appointments. Therefore, the Respondents have prayed for dismissal of this original Application.

3. Respondent No. 2 (Employment officer) has also filed a separate counter stating therein that the Respondent No. 4 had notified three posts of EDMC/Packer for three different post offices vide requisition dated 23.2.1998; of which one was reserved for SC; one was reserved for OBC and another one was left unreserved and that, the Respondent No. 4, in his requisition placed with the Employment Exchange, had sought for sponsoring candidates with qualification of Class-VII and that, since the Applicant belongs to General (un-reserved) community and is a matriculate (higher qualification) his name was not sponsored.

4. This matter was listed for hearing on admission (as well as for consideration of interim prayer made in the original Application) on 24.3.1998 and after hearing the Counsel for the parties, notices were only directed to be issued and, with regard to interim prayer made in the original Application, the Learned Standing Counsel (representing the Union of India/Respondents) was directed to obtain instruction. As it appears, against that order of this Tribunal, the Applicant approached the Hon'ble High Court of Orissa




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in a writ Application (O.J.C. No.4341 of 1998) and Their Lordships (in the Hon'ble High Court of Orissa) have passed on 30.3.1998, the following orders:-

Petitioner is aggrieved by the order dt. 24.3.1998 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A.No.148 of 1998. The petitioner is aggrieved as no interim order was passed. Further the petitioner apprehends that posts may be filled up without notice to him. We modify the said order to the extent that if interview takes place, the petitioner may participate, by filing an application, but the result of which shall not be declared without leave of this Court. The petitioner shall not claim any equity.

5. Heard learned Counsel for both sides (Mr.B.S. Tripathy, learned Counsel appearing for the Applicant; Mr.S.B.Jena, Learned Additional Standing Counsel appearing for the Respondents 1, 3 and 4 and Mr.K.C.Mohanty, Learned Government Advocate for the State of Orissa, appearing for the Respondent No. 2 and perused the materials placed on record. It is worthwhile to mention here that as per the existing rules, no interview of candidates are taken in the process of recruitment for any post of EDAs, the selection for the post in question, are based on the basis of the marks secured by a candidate in the prescribed qualification. In a series of decisions, this Tribunal as also by various courts, have already held that a substitute has no right to continue on regular basis; nor any preference can be given to his experience gained as a substitute. A substitute always works at the risk and responsibility of a regular incumbent. No waiting list is also maintained by the Department



with regard to the substitute employees. As such, question of giving preference to the experiences of the Applicant does not arise. However, in this instant case, the Applicant has not come out with a specific case that he has been denied for consideration against any particular post while selecting others. As regards consideration of his case, when the selection took place, since the name of the applicant was not received through the employment exchange, nor the applicant had applied directly, the Respondents rightly had not considered his case along with others.

6. However, during the hearing, learned Addl. Standing Counsel appearing for the Respondents (Mr. S.B. Jena) has placed before us a copy of the letter dated 21.8.2003 (addressed to him, by the Respondents-Department) wherein it has been disclosed that for the post of E.D.M.C.-cum-Packer for Sector-6 Post office at Rourkela, one Shri Kishor Chandra Dash had already been selected and appointed on 20.2.1999; where the applicant had also neither applied for the post nor his name was sponsored by the Employment Exchange. It was further undertaken by the Respondents, in the said letter written to the learned Addl. Standing Counsel that in case the Applicant applies for any post (when recruitment will take place) they will consider the candidature of the Applicant along with others, as per the rules.

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7. In the aforesaid premises, we find no considerable force in the case of the Applicant and, accordingly, this original is dismissed being devoid of any merit. However, we make it clear that in future, whenever, the Respondents will go for filling up of any E.D. post on regular basis, the case of the Applicant, if he makes application for the said post, should receive due consideration, along with others, as per the rules.

No costs.



[Signature]
(B.N. SEM)
VICE-CHAIRMAN

[Signature] 30/09/2003
(M. R. MOHANTY)
MEMBER (JUDICIAL)

KNM /