

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 233 OF 1998.
Cuttack, this the 29th day of June, 2000.

ADIKANANDA JENA.

....

APPLICANT.

VRS.

UNION OF INDIA & ORS.

....

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.

8
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 233 OF 1998.
Cuttack, this the 29th day of June, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

..

ADIKANANDA JENA,
Aged about 35 years,
Son of Brusab Jena,
At/Po: Ambagadia,
Ps: Anandapur,
Via- Fakirpur,
Dist: Keonjhar-22,
EDBPM, Ambagadia.

....

APPLICANT.

By legal practitioner: M/s. S.K. Nayak, A.K. Baral, S.K. Nayak, Advocates

-VERSUS-

1. Union of India represented through its Secretary, Department of Posts, New Delhi.
2. The Postmaster General, Orissa Circle, At/Po/Ps: Bhubaneswar, Dist: Khurda.
3. Superintendent of Post Offices, Keonjhar Division, At/Po/Ps: and Dist: Keonjhar-1.

... RESPONDENTS.

By legal practitioner: Mr. B.K. Nayak, Additional Standing Counsel.

...

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, the applicant has prayed for absorption in the post of E.D.B.P.M, Ambagadia Branch Post Office in view of the order dated 7-3-1989 of the Tribunal in Original Application No.308 of 1988. Respondents have filed counter opposing the prayer of the applicant. Today when the matter was called for hearing, an adjournment was sought for on behalf of learned counsel for the applicant and it was also stated that copy of counter has not been served on the learned counsel for the petitioner. On verification of the record, we find that on 24.12.1999 it was submitted by learned Additional Standing Counsel Mr. B.K. Nayak that he is unable to serve copy of the counter on the learned counsel for the petitioner who is not attending the court on the date fixed. Thereafter, two adjournments have been given. On 19.4.2000, again the matter came up. None appeared on behalf of the petitioner and therefore, copy of the counter could not be served on the other side. In view of this on 19.4.2000 it was ordered that further time can not be allowed to learned counsel for the petitioner to receive the copy of the counter and the matter was posted today for hearing and final disposal at the stage of admission. In the context of the above facts, prayer for adjournment was refused. We have heard Ms. Mirabai Bhanj, learned counsel for the applicant and Mr. B.K. Nayak, learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

2. The admitted position is that the applicant was appointed as EDBPM, Ambagadia Branch Post Office in the put off duty vacancy of one Prabhakar Rout. Applicant worked in that post from 10.9.1987 to 31.1.1989 which works out to one year, four months and few days. The original incumbent Mr. Rout was reinstated in service and he was appointed and the petitioner had to make way for the original incumbent. He approached this Tribunal in OA No. 308/88 which was disposed of in order dated 7.3.1989 at Annexure-1. The Tribunal declined to interfere in the order of the Department reinstating the original incumbent but observed that it was reported by the learned counsel for the petitioner that there was a vacancy at Mugupur Branch Post Office. The Tribunal observed that the Postmaster General and Supdt. of Post Offices, Keonjhar Division may take into consideration the case of the applicant who had long served the Department and ~~tried~~ ^{J Am.} to adjust him either at Mugupur Branch Post Office or in any other post office in the vicinity. Applicant's case is that now a vacancy has arisen in the post of EDBPM, at Ambagadia BO and he should be appointed to that post in pursuance of the above order of the Tribunal.


J Am. 3. The first point is to be noted in this connection is that the applicant is a nonmatric. In 1987 when he was given appointment to the post of EDBPM, Ambagadia BO in the put off duty vacancy, the minimum educational qualification for EDBPM was class-8 pass. From 1993 the minimum educational requirement became matriculation. As the vacancy in Ambagadia BO against which the applicant wants to be appointed has arisen according to the applicant's statement in June, 1998, the vacancy to be filled up in accordance with the recruitment rules. As the applicant does not have the minimum educational qualification of matriculation for being appointed to the post of EDBPM, he can

not obviously be appointed as EDBPM, Ambagadia. This prayer is therefore, held to be without any merit and is rejected.

4. As regards the order of the Tribunal in the earlier OA it is submitted by learned Additional Standing Counsel that the Departmental Authorities had made sincere effort to give an appointment to the applicant. He was appointed as EDDA Panchpali in December, 1989 but the applicant intimated in Annexure-R/1 that the villagers objected to his joining in that post and working in that post and therefore, the applicant wanted another appointment somewhere near to his village. Respondents have further stated that it was considered to give him appointment as EDBPM, Balipokhari and he was directed to submit the necessary documents but he remained silent. Applicant has mentioned in para-1, page-5 of the petition that as the Branch Post Office, Balipokhari is 45-50 KMS away from his village, he was not prepared to go and join there. In consideration of the above, we find that the Departmental Authorities have made efforts to give appointment to the applicant but the applicant declined to go to a place which is 45-50 KMS away from his village. It is also to be noted as pointed out by the Respondents that according to the instructions of DG Posts, only those ED employees who have completed the minimum three years of service and whose services have been dispensed with for the reasons unconnected with his conduct, have to be provided with alternative appointment. In this case applicant had put in little ^{over} one year, and four months of service and therefore, he is also not entitled to get appointment in accordance with the above instructions of DG of posts.

192
:5:

5. In consideration of the above, we hold that the application is without any merit and the same is rejected but in the circumstances, there shall be no order as to costs.


(G. NARASIMHAM)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.