

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 306 of 1998.

Cuttack, this the 7th of August, 2000.

Sukadev Tripathy. 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 Central Administrative Tribunal or not? *No*

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 306 OF 1998.
Cuttack, this the 7th day of August, 2000.

C O R A M:

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

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Sukadev Tripathy, Aged about 35 years,
Son of late Kapil Charan Tripathy,
of Village-Kutil, Pn:Baghuni,
PS:Salipur, Dist:Cuttack.

Applicant.

By the legal practitioner; Mr. R.K. Kar, Advocate.

- VERSUS -

1. Union of India represented through
the Secretary, Department of Posts,
Dak Bhawan, New Delhi.
2. Superintendent of Post offices,
Cuttack North Division,
Cuttack, Town/Dist.Cuttack.
3. Sub-Divisional Inspector of
Posts offices, Salipur Sub Division,
At/Pn/PS:Salipur, Dist.Cuttack. Respondents.

By legal practitioner; Mr. A.K. Basu, Senior Standing Counsel.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

S. Som
In this case, the applicant and several other persons
had come up before the Tribunal and had also approached the
Hon'ble High Court on several occasions and obtained orders.
The applicant had filed WJC No. 8266/98 which was disposed of
by the Hon'ble High Court in order dated 30.9.1999 with an
observation that the learned counsel for the parties had
submitted before the Hon'ble High Court that this OA is ready
for hearing. It was observed by the Hon'ble High Court that if
it is so, then the Tribunal may do well to dispose of the

matter as expeditiously as possible preferably by the end of December, 1999. Even though counsel for parties had submitted before the Hon'ble High Court regarding early disposal of this Original Application, this order of the Hon'ble High Court was produced by the applicant only on 27-7-2000 through a Memo. Thereafter, the matter has been taken up for hearing. We have heard Mr. R. K. Kar, learned counsel for the applicant and Mr. A. K. Bose, learned Senior Standing Counsel appearing for the Respondents and have also perused the records.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. Admitted position is that the applicant was appointed as EDDA, Baghuni Branch Post Office in the year 1986 in a put off duty vacancy of one Gangadhar Panda. Shri Panda was reinstated in service in 1991 and accordingly, the applicant's service as EDDA, Baghuni Branch Post Office was terminated. He approached the Tribunal in OA No. 805/94 which was dismissed in order dated 9.2.1996. While dismissing the Original Application filed by the applicant, the Tribunal noted that the post of ED Packer, Sukleswar is vacant and the Tribunal directed that the case of the applicant should be considered alongwith others in accordance with rules for the said post and the Department should not insist on the applicant getting his name recommended through employment exchange for the post of ED Packer, Sukleswar. Thereafter, in order dated 23.7.1996, at Annexure-1, applicant was appointed provisionally as EDMC cum ED Packer, Sukleswar. Applicant has stated that when he went to join at Sukleswar, Villagers objected to his joining and did not allow him to work. In the meantime, EDBPM Baghuni Branch Post Office, where the applicant was earlier

working as EDDA in a put off duty vacancy was removed from service. This EDBPM is one Deoakanta Tripathy and in that vacancy, the applicant was appointed as EDBPM, Baghuni Branch Post Office, provisionally. After some time in the impugned order dated 6-6-1998, the applicant was asked to hand over the charge to the Postman of Asureswar SO. Face with this, the applicant came up before this Tribunal in the present O.A. and has prayed for interim relief of stay the order at Annexure-4 which was rejected in order dated 22-6-1998. Against this order of the Tribunal dated 22-6-1998, rejecting his prayer for interim relief, the applicant approached the Hon'ble High Court in O.J.C. No. 8266/1998 in which case Their Lordships of the Hon'ble High Court in their order dated 22.6.1998 ordered that there shall be no termination of the petitioner pursuant to Annexure-4 till the next date. It is submitted by learned counsel for the applicant that this stay order was extended by the Hon'ble High Court from time to time and was ultimately vacated in order dated 30.9.1999 when the OJC was disposed of at the instance of D.K. Tripathy who had in the meantime been reinstated in service but was unable to join the post of EDBPM, Baghuni BO because of the stay order of the Hon'ble High Court of Orissa. It is submitted that after this Shri Tripathy joined as EDBPM, Baghuni BO and the applicant was thrown out of employment.

3. It is submitted by learned counsel for the applicant that he does not press for the prayer made by him in the O.A. for allowing him to continue as EDBPM, Baghuni BO. He also submits

that his prayer for getting arrear salary is no longer valid because he has received the arrear salary in the meantime. Ld. counsel for the applicant prays that his third prayer that in view of his long service initially in a put off duty vacancy as EDDA Baghuni and again as provisional EDBPM, Baghuni BO, the Departmental Authorities should consider him for some other ED posts. It is also submitted that a similar instruction was issued by the Tribunal in OA No. 905/94. It is submitted by Shri Bose, Ld. Senior Standing Counsel that for the post of EDDA cum ED Packer another person Sh. B. N. Singh who had worked as substitute, approached the Tribunal and obtained a stay for continuing in that post. Ultimately at the time of regular selection to the post of EDMC cum EDPacker, Sukleswar, both Shri Singh and the applicant were asked to submit their applications. In respect of Shri Singh Their Lordship's of the Hon'ble High Court had directed in OJC filed by Shri Singh that his case should be taken up for consideration for the post of EDMC cum ED Packer, Sukleswar. It is submitted by Shri Bose and this is also mentioned in the counter by the Respondents that the petitioner did not apply for the post of EDMC cum EDPacker at Sukleswar. It is submitted by Shri Kar, learned counsel for the applicant that at that time because of regular vacancy in the post of EDMC cum EDPacker, Baghuni BO, the Departmental Authorities had notified the vacancy and the petitioner had also applied for that post as is evident from Annexure-R/4 filed by Respondents in their counter. Because the applicant had applied for being regularly appointed to the post of EDBPM, Baghuni BO he did not apply for the post of EDMC cum EDPacker. It is submitted by learned counsel for the applicant that in view of his long service, the Departmental Authorities should consider him for

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some other ED posts. We note from the above recital fact that the applicant had worked from 1986 to 1991 as EDDA Baghuni BO and again as EDBPM, Baghuni BO from 1996 to 1999. In both the cases, termination of his service is on the ground which is unconnected with his conduct and functioning as ED employee. Departmental Rules provide that when an ED agent who is appointed provisionally and subsequently discharged from service due to administrative reasons and if at the time of discharge he has put in not less than three years of service, his name should be kept in the waiting list of ED Agents discharged from service. This has been laid down in DGPT letter dated 18.5.1979 gist of which has been printed at pages 87 to 88 of Swamy's compilation of ED Rules (7th Edn.). In consideration of this we dispose of this OA with a direction to the Respondents 2 and 3 to include the name of the applicant in the waiting list if not already included and offer him appointment in a suitable post of EDAs. It is also directed that in case the applicant applies for a post of ED Agent, belonging to general category within time then Respondents 2 and 3 should consider his candidature in accordance with rules and eligibility and should also take into consideration his experience in ED jobs held by him.

4. With the above observations and directions, the OA is disposed of. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
7.6.2002