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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.318 OF 1998

Cuttack, this the 17th day of Oct, 2003

Nabaghana Jcna Applicant(s)

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 ? *yes*

17-10-2003

(M. R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL
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Cuttack, this the 17th day of Oct., 2003

CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

&

HON'BLE SHRI M.R. MOHNTY, MEMBER (J)

Nabtagana Jena, aged about 33 years, son of Bholi Jena, At/P.O.
Ratilo, Via-Rench, P.S. Nimapara, Dist-Puri.

.....Applicant(s)

By the Advocate(s)

..... M/s. Anil Deo,
M.P.J. Roy



Vrs.

1. Union of India represented through its Secretary to the Govt. of India, Department of Posts, Dak Bhawan, New Delhi-1.
2. Chief Post Master General Orissa, Bhubaneswar, Dist Khurda.
3. Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar-1, Dist-Khurda.
4. Sub-Divisional Inspector of Posts, Nimapara Sub-Division, Nimapara, Dist-Puri. Respondent(s)

By the Advocate(s) -

....

Mr. U.B. Mohapatra.

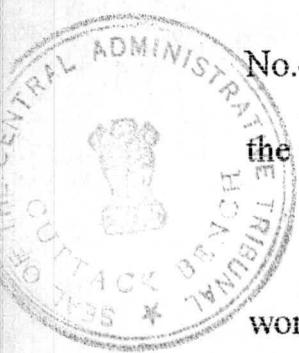
O R D E R

SHRI B.N. SOM, VICE-CHAIRMAN:

This O.A. has been filed by Nabtagana Jena seeking a direction to be issued to the Respondents to appoint him as Extra Departmental Delivery Agent (in short EDDA), Tentuligaon Branch Post Office.

2. The case of the applicant is that he has rendered long years of service as substitute in the post of Extra Departmental Packer/Extra Departmental Mail Carrier (in short EDP/EDMC), at Brahamakundi Sub-Post Office. He was first appointed on 01.12.1997 as substitute and worked till 28.02.1998 and thereafter from 03.03.1998 to 03.06.1998, and in total he has worked 182 days. With the aforesaid past experience at his disposal of working in the Department as EDP/EDMC, he applied for the post of EDDA, Tentuligaon S.O., by submitting a representation to Respondent No.4. His grievance is that his representation has not been disposed of by the said Respondent No.4

3. The Respondents in their counter admitting that the applicant had worked as substitute has stoutly denied that the applicant is entitled to any preferential treatment in appointment to the post of EDDA. Not only that, they have disclosed that the applicant's name was never sponsored by the Employment Exchange, so the question of considering his case did not arise. Further, they have submitted that there is no provision in the departmental rules to absorb a substitute against a regular vacancy without following the method of recruitment prescribed for the purpose. They have, therefore, submitted that the applicant is not entitled to the relief sought for and that the Application is devoid of merit.



4. We have heard the counsel for both the parties and have perused the records placed before us.

5. This O.A. revolves round two issues which are :-

- (i) Whether the applicant is entitled to be considered for selection to the post of EDDA, Tentuligaon B.O. even if his name is not sponsored by the employment exchange.
- (ii) Whether the applicant having worked as substitute is entitled to preferential treatment/weightage in selection for regular appointment.

6. The issue no.(i) is answered in the negative in terms of DGP&T

letter No.45-22/71-SPB.I/Pen dated 04.09.1982 which lays down that recruitment of ED agents are to be made only through the Employment Exchange. This order has been modified only in 1998 to the extent that in addition to obtaining the names of the candidates from the Employment Exchange, the Department should simultaneously notify the vacancy through public advertisement and the candidates nominated by the Employment Exchange as also those who responding to the open advertisement should be considered together.

7. Regarding the issue no.2 we have already answered it while disposing of O.A. No.509 of 1997 in Jaladhar Khilla Vs. Union of India and others and in O.A No.701/97 dated 27.05.2003, Mamata Barik Vs. Union of India and others cases as follows:-

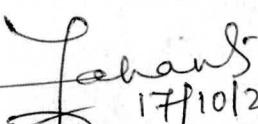
“..... The fact of the matter is that substitute is not engaged/appointed by the Respondents-Department; substitute is put

up by the ED/GDS proceeding on leave at his risk and responsibilities; of course, with the approval of the authorities of the Respondents-Department, but no service contract exists between the substitutes and the Respondents-Department. Hence they do not have any legal right to seek preference ”

8. In Jaladhar Khilla Vrs. Union of India & Others case relying, on the Full Bench decision consisting of five members of this Tribunal, we have pointed out that no weightage can be given to any applicant for ED agents post for the experience gained by him while working as such an agents either on the provisional basis or as a substitute.

9. Following the ratio of these cases referred to here, we hold that the plea of the applicant in this case is not sustainable as the applicant is not entitled to any weightage for the experience that he had gained by working as substitute EDP/EDMC because the Recruitment Rules for the post do not prescribe that preference to be given for experience in the post to any candidate.

10. In view of our findings on the issues raised in this O.A. we see no merit in it and dismiss it accordingly.


17/10/2003
(M.R. MOHANTY)
MEMBER (JUDICIAL.)


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeshwar