



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 404 OF 1998.
Cuttack, this the 15th day of September, 2000.

Ashoka Kumar Jena.

....

Applicant.

- Versus -

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.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
15.9.2000

5
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 404 of 1998
Cuttack, this the 15th day of September, 2000.

CORAM:

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

..

Ashoka Kumar Jena, Aged about 35 years,
Son of Bhagaban Jena, At/PO: Lethaka,
Via. Jenapur, Dist. Dhenkanal. ... Applicant.

By legal practitioner: Mr. Anil Deo, Advocate.

-VERSUS-

1. Union of India represented by its Secretary,
Department of Posts, Dak Bhawan, New Delhi
2. Chief Postmaster General Orissa Circle,
At/PO: Bhubaneswar, Dist: Khurda.
3. Superintendent of Post Offices,
Cuttack North Division,
At/PO/Town/Dist: Cuttack.
4. Sub Divisional Inspector (Posts),
Jajpur Road Sub Division,
At/PO: Jajpur Road, Dist. Jajpur. ... Respondents.

By legal Practitioner: Mr. A. K. Bose, Senior Standing Counsel.

...

ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

J. J. Som
In this Original Application, under section 19 of the
Administrative Tribunals Act, 1935, the applicant has prayed
for quashing the order at Annexure-3 and for a direction to
the Respondents to reinstate the applicant with full back
wages. Respondents have filed counter opposing the prayer of
the applicant. Before proceeding further it is to be noted
that in the order at Annexure-3 applicant's appointment as
EDDA, Lethaka BO was terminated during the pendency of this
O. A. The Departmental Authorities initiated fresh selection
for the post. Applicant came up in MA No. 592/2000 which was
disposed of in order dated 30.8.2000 with a direction that

on the basis of the submissions made by learned Senior St. Counsel that in case a person is selected and appointed to the post, pursuant to this notice, his appointment will be subject to the result of this application and this should be specifically mentioned in the appointment order of the person so selected. For the purpose of considering this O.A it is not necessary to go into too many facts of this case. The admitted position is that the applicant was selected for the post of EDDA Lethaka BO in order dated 3.6.1998 and his services were terminated in order dated 27.7.98. Applicant has stated that he was duly selected after he applied in response to a public notice but without any show cause his services were terminated.

2. Respondents in their counter have pointed out that in the process of selection various irregularities were committed and that is why the Reviewing Authority, Supdt. of Post Offices, Cuttack North Division, Respondent No.3 directed that the services of the applicant should be terminated. This order of Res. No.3 is dated 20.7.98 at Annexure-R/3 and basing on this, the impugned order at Annexure-3 to the OA has been issued.

3. We have heard learned counsel for the applicant and Mr. Anup Kumar Bose, learned Senior Standing Counsel appearing for the Respondents and have also perused the records.

4. Learned Senior Standing Counsel in course of his submission has mentioned various irregularities which have been committed in the process of selection and appointment of the applicant to the post of EDDA, Lethaka BO. It is not necessary to go into details of this because in this case the order at Annexure-3 has been issued under Rule-6 of the EDA (Conduct and Service) Rules. Law is well settled that before

taking action under Rule-6, a show cause notice has to be issued but this has not been done in this case. Moreover, the Appointing Authority who had issued the order at Annexure-3 has acted on the direction of the Reviewing Authority i.e. Respondent No.3 without application of mind. On the above grounds the impugned order at Annexure-3 is quashed. It is held that the applicant is deemed to be continuing in his post but as he has been physically evicted from the post after issuing the impugned order at Annexure-3, he has to be reinstated in service and this should be done within a period of fifteen days. The petitioner will be entitled to back wages for the intervening period.

5. As regards the alleged irregularities we make it clear that the Appointing Authority will be free to take note of these irregularities and act strictly in accordance with law. Anything said by us in this order will not be taken to have any effect on the appointing authority in case he proceeds to take action under rule-6. We take note of the fact that Respondents have already initiated the process for filling up of the post. Respondents shall not proceed with the selection process in view of the order of reinstatement of the applicant to his post of EDDA. In our order dated 30.3.2000 we had made it clear that in case any appointment is made in pursuant to the notice then such selection shall be subject to the result of this OA. As such the applicant should be reinstated within fifteen days as ordered above.

6. In the result, the OA is allowed. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

KNM/CM:

(SOMNATHSOM)
VICE-CHAIRMAN