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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 615 OF 1998.

Cuttack, this the 15th day of January, 2001.

Ashok Kumar Sethi, .... .... 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.

L.H.  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
15.1.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 615 OF 1998  
Cuttack, this the 15th day of January, 2001.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

..

Ashek Kumar Sethi,  
S/o. Late Bairagi Sethi,  
At-Satakabada, P.O; Biswanathpur,  
P.S; Balipatna, Dist; Khurda.

....

APPLICANT.

By legal practitioner: M/s. P. K. Giri, D. K. Mallik, Advocate.

- Versus -

1. Union of India represented by Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar, DIST; Khurda.
2. Assistant Superintendent of Post Offices, Bhubaneswar I/c Bhubaneswar North Sub Division, Bhubaneswar, DIST; Khurda.
3. PostMaster, IRC Village Post Office, Bhubaneswar-15, Dist; Khurda.

By legal practitioner : Mr. S. B. Jena, Additional Standing Counsel.

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

*J. Jom*  
In this Original Application, the applicant has prayed for a direction to the Respondents to regularise his service in IRC Village Post Office as EDDA or any other post under ASPO, Bhubaneswar. The second prayer is for a direction to the Respondents to allow him to continue as Casual Labour cum ED Agent in IRC Village Post Office till he is permanently absorbed. Applicant's case is that he has passed HSC in 1992 and has been engaged continuously as a part time Sweeper cum Part time watchman

in IRC Village Post Office since 1991. While working continuously, as such he was also engaged as ED Packer cum EDMC from time to time in nearby post office since 1993 on many occasions but without any reason his services have been terminated by the verbal order from 1.1.1998 and he is without any engagement. Applicant has stated that Departmental instructions provide that casual labourers whole time or part time should be given preference in recruitment as ED Agent. They also be allowed ultimate absorption as G.R.D employees. In consideration of this, he claims that his case deserves to be considered. He further states that at BJD Nagar Sub Post Office one EDDA post is lying vacant but his case is not being considered. In the context of the above fact, he has come up with the prayers referred to earlier.

2. Respondents in their counter have opposed the prayers of the applicant.

3. They have denied the assertion of the applicant that he has been working as a part time watchman cum Sweeper at IRC Village Post Office since 1.6.1991. They have stated that for Sweeping the office or supplying water to the office daily no post is created and the concerned postmaster has to get the work done by engaging a person on contingent basis. They have stated that the applicant has worked for sometime as water carrier in IRC Village Post Office but he absented from duty from 1.1.1998 and some one else had to be engaged to do the work. They have mentioned that for certain periods one Laxmi Sahoo has done the work of Sweeper and Sweeping allowance has been drawn for payment to her. Respondents have

J. J. M

further stated that the Departmental Authorities had never appointed the applicant as a substitute. Applicant was engaged as a substitute by the regular ED Packer cum Mail Carrier at his own risk and responsibility and on his joining, the applicant had to make way for him. Respondents have stated that there is no post of GR.D in IRC Village Post Office and question of regularisation of the applicant against such post does not arise. On the above grounds Respondents have opposed the prayers of the Applicant.

4. Applicant has filed M.A. No. 228/99 praying that one Amin Khan who is the brother of Sub Post master of IRC Village Post Office has been engaged as EDMC cum ED Packer without considering the case of the applicant and he has therefore, prayed that instead of Amin Khan applicant should be given such engagement. This M.A. was listed on several occasions but was not taken up for consideration. Respondents have also filed counter to the M.A. in which they have mentioned that one Debendra Ransingh is a regular incumbent of the post of EDMC, IRC Village Post Office and one Amin Khan worked as a substitute in his post and also worked as water carrier when the applicant absented from duty from 1.1.1998. On return for duty, Amin Khan has been relieved of his responsibility as a substitute of Debendra Ransingh the permanent ED Packer who availed leave w.e.f. 5.10.98 to 31.12.98.

JMM

5. Applicant is absent. There is no representation from the side of the Respondents. Learned Advocates have abstained from court work for more than a month and there is no indication when they will be returning to court work. Honourable Supreme Court in the case of RAMAN SERVICES PVT. LTD. VRS. SUBASH KAPUR AND OTHERS reported in 2000 AIR SCW 4093 have deprecated the action of the Courts in adjourning cases when lawyers have abstained from such court work. They have even observed that by granting adjournments the defaulting court is contributing to Contempt of the Hon'ble Supreme Court. In view of the above position of law laid down by the Honourable Supreme Court it is not possible to drag on the matter indefinitely. We have therefore, perused the records.

6. Departmental instructions provide that casual labourers and part time casual labourers can be absorbed alongwith other category of staff against Gr.D posts but for such absorption there is an order of preference in which part time casual labourers occupy the last position after ED employees. Because of this it has been observed by DG posts that casual labourers both part time and full time hardly ever get a chance to get absorbed in regular Gr.D posts because of existence of large number of ED employees who are also eligible for such absorption. In consideration of that the DG posts has issued instruction that part time and whole time casual labourers should be given preference for appointment to ED posts provided they apply in time and have the necessary qualifications. In the instant case applicant has stated that he has been working as a part time

casual labourer from 1991 till 1.1.1998 except on occasions, when he worked as substitute against ED post and on 1.1.98 he was disengaged on verbal order. Respondents have stated that the applicant was working as a contingent labourer for sometime for Sweeping and Supplying of water. They have contested the claim of applicant that he is doing that job from 1991 onwards till 1998. Be that as it may the nature of the work performed by the applicant is that of a part time casual labourer. Therefore, he is entitled to be considered strictly in accordance with rules and instructions of DG of posts for appointment to ED post. In view of this, we direct that as and when the applicant applies for an ED post for which recruitment is going on the Respondents should consider the case of the applicant alongwith others provided he applies within time and has the necessary qualification for the post. While considering the applicant's candidature, Respondents should follow the instructions of DG (posts) in the matter of giving preference to casual labourers, whole time and part time. This prayer of the applicant is accordingly disposed of.

7. Applicant has asked for regularisation in a Gr. D post in IRC Village post office. Law is well settled that regularisation can only be done only against the post and in accordance with rules. As there is no post and as per the instructions casual labourers occupied last order of preference as indicated earlier, the applicant can not be ordered to be regularised straightaway. This prayer is accordingly rejected.

*VJM*

8. So far as the prayer in M.A.No.228/99 is concerned, we have already noted that according to the averments of the Respondents, in their counter to the MA, there is no regular vacancy in the post of EDMC cum ED Packer. Engagement of Sh.A.Khan was only during the leave vacancy of the regular incumbent. Therefore, the prayer of the applicant to direct the Respondents to engage him as substitute EDMC cum Packer in IRC Village post office, is held to be without any merit and is rejected.

9. In the result, therefore, the OA is disposed of with the observations and direction made above. No costs.

G.N.  
(G.NARASIMHAM)  
MEMBER(JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*S. Som*

KNM/CM.