

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 279 OF 1999.

Cuttack, this the 4th day of ~~September~~^{October}, 1999.

S. V. M.

BINAYA KUMAR PRADHAN.

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APPLICANT.

VRS.

UNION OF INDIA & OTHERS.

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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)

S. V. M.
(SOMNATH SOM)
VICE-CHAIRMAN
1999

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 279 OR 1999.

Cuttack, this the 4th day of September, 1999.

*Order
SJM.*

CORAM:

THE HONOURABLE MR. SOMNATH SQM, VICE-CHAIRMAN

AND

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

..

SHRI BINAYA KUMAR PRADHAN,
Aged about 27 years,
S/o. Shri Lilla Pradhan,
At/Po: L.L.N. Pur,
Via. Nuwapada, Dist. Ganjam (O).

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APPLICANT.

By legal practitioner : Mr. P. K. Padhi, Advocate.

-VERSUS-

1. Union of India represented through its
Chief postmaster General (Orissa),
At/Po. Bhubaneswar, Dist. Khurda-1.

2. Senior Superintendent of Post Offices,
Berhampur Division, At/Po. Berhampur,
Dist. Ganjam (O),

3. Sub-Divisional Inspector of Post Offices,
Digapahandi Sub Division, At/Po. Digapahandi,
Dist. Ganjam (O).

... RESPONDENTS.

By legal practitioner : Mr. S. Behera, Additional Standing
Counsel (Central).

SJM ..

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Departmental Authorities to quash the order of termination at Annexure-2 and to pay him all backwages.

2. For the purpose of considering this original Application, it is not necessary to go into too many facts of this case. Applicant's case is that he has been working as EDDA cum EDMC of LLN Pur Branch Post Office w.e.f. 1.11.1998 after having taken over the charge on 31.10.98. Suddenly on 15.6.1999, the SDIP, Respondent No. 3 arrived at the Branch Post Office and directed the applicant to hand over the charge. Applicant wanted that an order should be issued to him and thereafter, the impugned order dated 15.6.1999 at Annexure-2 has been issued. It is stated that the applicant has not handed over the charge to any person and he is still in service and the impugned order has been passed violating the principle of natural justice and because of this, the applicant has come up in this Original Application with the prayer referred to earlier.

S Jm

3. Respondents in their counter have stated that the regular incumbent in the post of EDDA cum EDMC one Shri Purna Chandra Pradhan was promoted to the postman cadre. He got himself relieved from the post by taking leave and providing the applicant as substitute. Applicant assumed charge on 31.10.1998 as substitute. The original incumbent was required

to apply for leave and provide the applicant as substitute from time to time. In this way, the applicant worked as a substitute upto 30.4.1999. From 1.5.1999, no leave application has been furnished by the original incumbent Shri Purna Chandra Pradhan and hence the applicant ceased to be a substitute. Respondent No.3 took over the charge of SDIP on 7.6.1999 and on going through the records, he came to know that the applicant was continuing unauthorisedly and therefore, he directed the applicant on 15.6.99 at the post office to hand over the charge to him. But instead of receiving the order, applicant fled away and did not hand over the charge and that his how, the impugned order of termination has been passed. Respondents have stated that the applicant is not a regular ED employee nor he was selected through a process of selection. He is a mere substitute and no formal appointment order has been issued to him. On the above grounds, they have opposed the prayer of applicant.

4. We have heard Mr. P. K. Padhi, learned counsel for the applicant and Mr. S. Behera, learned Additional Standing Counsel (Central) appearing for the Respondents and have also perused the records.

5. Applicant has made no averments that he has been selected in the post of EDDA cum EDMC, LLNPur BO through any process of selection. He has also not denied the averments of the Respondents that he was inducted as a substitute by the regular incumbent on his going on leave and joining in the postman cadre. The position is well settled that a

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substitute works at the risk and responsibility of the original incumbent, during the period of leave of the original incumbent. In this case, the original incumbent did not apply for any leave beyond 30.4.99 and therefore, from 1.5.1999 the applicant can not be taken even to be a substitute. The fact that he continued till 15.6.99 without any legal authority would not give him any right to continue in the post. As he had not been appointed as EDDA cum EDMC through any process of selection, no question of giving him notice or application of principle of natural justice would arise in this case. In view of this, we hold that the applicant has not been able to make out a case for quashing the order of termination and the same is, therefore, rejected.

6. Applicant has also prayed for backwages. It appears from the counter of the Respondents themselves that the applicant had worked from 1.5.1999 to 15.6.1999 without any valid authority. But in case the Department has entrusted work to him, they are bound to pay him the allowances through the original incumbent during that period. In view of this, we dispose of this point of the original application with a direction to the Respondents that from the period from 1.5.99 to 15.6.99 the allowances should be paid to the applicant within a period of 90 (ninety) days from the date of receipt of a copy of this order, if the same has not already been paid to him. Payment should be made strictly in accordance with the existing rules and instructions.

S. S. M.

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7. In the result, the original Application is disposed of in terms of the observations and directions made above. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN 0.99

KNM/CM.