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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 482 OF 1999

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Cuttack this the 6th day of March, 2000

Bikram Kishore Pani

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

(SOMNATH SOM)  
Vice-Chairman

6.3.2000  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 482 OF 1999  
Cuttack this the 6th March, 2000

CORAM:

THE HON'BLE SHRT SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE SHRT G.NARASIMHAM, MEMBER(JUDICIAL)

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Sri Bikram Kishore Pani,  
32 years, S/o. Bishnu Charan Pani  
Vill: Ganeswarpur, PO: Gopinathpur  
Via: Bahugram  
Dist: Cuttack

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Applicant

By the Advocates : M/s.D.R.Pattnaik  
M.K.Khuntia  
N.S.Panda

-Versus-

1. Union of India represented by it's  
Chief Post Master General(Orissa Circle)  
At/Po: Bhubaneswar, Dist: Khurda-751001
2. Superintendent of Post Offices,  
Cuttack South Division, At: P.K.Parija  
Marg, PO: Cuttack G.P.O., Dist: Cuttack  
PTN 753001

By the Advocates : ...  
Mr.J.K.Nayak  
Addl. Standing Counsel  
(Central)

Respondents

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ORDER

MR.G.NARASTMHAM, MEMBER(JUDICIAL): Applicant, Bikram Kishore Pani, who was provisionally selected and appointed as Extra Departmental Branch Post Master, Gopinathpur Branch Office by order dated 12.2.1997(Annexure-1) against a put off duty vacancy was discharged from service by order dated 16.2.1999(Annexure-2) on the reinstatement of the original incumbent. In this application he prays for issue of direction to Res.2, i.e. Superintendent of Post Offices, Cuttack(S) Division, to absorb/adjust him in any F.D.Post in Cuttack(S) Division on the grounds that he has rendered two years of continuous service, that his name has been deleted from the employment exchange because of this provisional appointment, that he had already crossed the maximum age of securing any employment and that before passing the order of termination, no show cause notice was served on him and he was also not served with one month's notice or one month's allowance in lieu of such notice.

2. These facts are not in controversy. The stand of the Department in the counter is that the applicant was given to understand in clear terms that in the event of the original incumbent being reinstated, this provisional appointment would be terminated without notice (Annexure-1) and accepting these conditions, he joined the post of F.D.B.P.M., Gopinathpur on 18.2.1997. The original incumbent Shri Dash was reinstated with effect from 17.2.1999 and as such according to terms and conditions, this provisional appointment of the applicant was terminated. As per D.G.(P&T) Circular dated 23.2.1979

only those provisionally appointed F.D. Agents, who rendered more than three years of continuous service and thereafter disengaged will be kept in the waiting list to be considered for future vacancies. The applicant having not put in three years of service as F.D.B.P.M., consideration of his case for appointment to any F.D. Post would not arise.

3. Applicant has not filed any rejoinder to counter.

4. We have heard Shri D.R.Pattnaik, learned counsel for the applicant and Shri J.K.Nayak, learned Addl. Standing Counsel for the respondents. Also perused the records.

Facts as already indicated are not in dispute. Admittedly the applicant had hardly put in two years of provisional service. Hence benefit conferred under D.G.(P&T) circular dated 23.2.1979 for keeping his name in the waiting list would not arise. There is also no provision that a provisional F.D.Agent serving hardly for two years is entitled to be absorbed/adjusted in any F.D.post. Hence we are not inclined to grant the relief sought for with regard to direction to the Department to absorb/adjust him in any F.D.post in Cuttack(S) Division.

The fact however remains that his service though provisional was terminated. Rule-6 of E.D.A.(Conduct & Service)Rules deals with termination of service of F.D. Agents rendering not more than three years of continuous service does not distinguish between a provisionally appointed F.D. employee and a regular F.D.employee. As per rule, an F.D. employee rendering not more than three years of service can be terminated from

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service at any time either by giving one month's notice or by payment of a sum equivalent to the amount of basic allowance plus D.A. for the period of the notice at the same rates at which he was drawing immediately before the termination of service, or as the case may be, for the period by which such notice falls short of one month. No such notice has been issued to the applicant as is apparent from the records. Hence the Department is bound to give him one month's allowance as mentioned in the proviso to Rule-6 of E.D. Agents(Conduct & Service) Rules, 1964.

5. In the result, while disallowing the prayer of the applicant to be absorbed/adjusted in any E.D. Post in Cuttack(S) Division, we direct the respondents to pay one month's allowance to the applicant as provided under the proviso of Rule-6 of E.D. Agents(Conduct & Service) Rules, 1964 within a period of 60(sixty) days from the date of receipt of this order.

6. Applicant had filed Misc. Application 76/2000 praying for modification of the interim order dated 15.9.1990. In view of disposal of the Original Application, M.A. 76/2000 needs no further consideration.

6-3-2020  
 (SOMNATH SOM)  
 VICE-CHAIRMAN

(G.NARASTHAM)  
 MEMBER(JUDICIAL)

B.K.SAHOO