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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 323 OF 2001  
Cuttack, this the 23rd day of October, 2001

Kamraj Baliar Singh .... Applicant

Vrs.

Union of India and 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 Somy*  
(SOMNATH SOMY)  
VICE-CHAIRMAN  
23.10.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 323 OF 2001  
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CORAM;

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

.....  
Kamraj Baliar Singh, aged about 22 years, son of Kulamani  
Baliar Singh, resident of village/PO-Ora, Via-Kotgarh,  
Dist.Kandhamal.... Applicant

Advocates for applicant - M/s M.Kanungo  
S.K.Kanungo  
P.K.Rath  
L.Kanungo  
Y.S.P.Babu

Vrs.

1. Union of India, represented through Department of  
Posts, India, Represented by Post Master General,  
Bhubaneswar, Dist.Khurda.
2. Superintendent of Posts, At/PO/Dist.Phulbani.
3. Sub-Divisional Inspector (Postal), Baliguda  
Sub-Division, Baliguda.
4. Mihir Kumar Baliar Singh, S/o Ujul Baliar Singh,  
ex-EDBPM, Ora B.O.,  
At/PO-Ora, Via-Kotgarh, Dist. Kandhamal  
..... Respondents

Advocates for respondents - Mr.A.K.Bose,  
Sr.CGSC  
&  
Mr.P.K.Padhi

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

*S.Som.*  
In this O.A. the petitioner has prayed  
for quashing the order dated 11.6.2001 (Annexure-5)  
requiring him to hand over charge of the post of EDBPM,  
Ora, to private respondent no.4 and for a direction to  
the departmental authorities to permit the petitioner to  
continue in the post of EDBPM, Ora.

2.By way of interim relief, the applicant  
had prayed that he should be allowed to continue in

service during the pendency of the O.A. In order dated 26.7.2001 the departmental respondents were directed that till 17.8.2001 they will not make the applicant hand over charge to respondent no.4 in case the applicant had not already handed over charge by that date. Subsequently, in order dated 27.8.2001 the interim order was vacated. Against the order dated 27.8.2001 of the Tribunal, the applicant approached the Hon'ble High Court in OJC No.11933 of 2001 and their Lordships in order dated 13.9.2001 declined to interfere in the order of the Tribunal and noted that at the present stage opposite party no.4 has been reinstated and he should be allowed to join his original post. Their Lordships also noted the submissions made on behalf of the writ petitioner, the present applicant, and directed that said submissions will be considered at the time of final hearing of the O.A.

3. The departmental respondents and private respondent have filed counters opposing the prayers of the applicant, and the applicant has filed rejoinder reiterating his prayer.

4. We have heard Shri S.K.Kanungo, the learned counsel for the petitioner, Shri P.K.Padhi, the learned counsel for private respondent no.4, and Shri A.K.Bose, the learned Senior Standing Counsel for the departmental respondents and have perused the pleadings. For the purpose of considering the petition it is not necessary to go into too many facts of this case. The admitted position can, however, be stated.

5. Respondent no.4 was appointed as EDBPM, Ora, in May 1989. In a disciplinary proceedings

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against him, he was removed from service in order dated 30.10.1999. His appeal was also rejected and the order of removal from service was upheld in the order dated 28.4.2000 of the appellate authority. Against the orders of the disciplinary authority and the appellate authority, respondent no.4 filed a revision before Member(Personnel ), Department of Posts, and the revisional authority in his order dated 14.5.2001 (Annexure-R/1 to the Department's counter) modified the punishment to that of "Censure" with the stipulation that the modification will not entitle the applicant to payment of allowance for the period he has not worked. It is also the admitted position that after removal of respondent no.4 from service, the departmental authorities took steps to fill up the vacant post on 13.11.2000. The Employment Exchange authorities were asked to sponsor names and public notice was also issued. In the selection process the applicant was selected provisionally for the post of EDBPM, Ora. The applicant joined his post on 27.4.2001. The departmental respondents have stated that before joining the applicant was given necessary training and all the required documents were also collected from him, but no formal appointment order was issued in the name of the applicant. On 14.5.2001 the revisional authority modified the order of punishment and therefore, respondent no.4 was reinstated in service in place of the applicant.

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6. It has been submitted by Shri Kanungo, the learned counsel for the petitioner that in the notice inviting application as also in all the documents regarding the selection of the applicant, it was nowhere mentioned that the applicant was being appointed in the

put-off duty vacancy and therefore, his appointment is regular. We have considered this submission. Obviously, the appointment of the applicant was not against the put-off duty vacancy because respondent no.4 had been removed from service in the order dated 30.10.1999 and his appeal was rejected in order dated 28.4.2000 as it appears from Annexure-Y to the counter filed by private respondent no.4. But just because in the selection and appointment of the applicant there was no indication that the appointment was against a put-off duty vacancy, the applicant cannot claim that he should be allowed to continue in the post. Admittedly, respondent no. 4 was originally appointed to the post. He was removed from service, but the removal order was set aside and punishment of "Censure" was imposed on him. Respondent no.4 was thus entitled to be re-inducted in the post of EDBPM, Ora, and the applicant cannot claim that he should be allowed to continue in the post. This prayer is accordingly held to be without any merit and is rejected.


7. It is submitted by the learned counsel for the petitioner that he is a duly selected candidate and for no fault on his part, he is being put out of office and therefore, the departmental authorities should make arrangement to give him alternative employment. In the circular dated 18.5.1979 of Director General, P&T, gist of which has been printed at pages 87 and 88 of Swamy's Compilation of Service Rules for Postal ED Staff (7th Edition), it is provided that ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons,


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efforts should be made to give ~~them~~ alternative employment to them, if at the time of discharge they had put in not less than three years' service. It is also provided that in such cases their names should be included in the waiting list of ED Agents discharged from service, prescribed in D.G., P&T, letter dated 23.2.1979. In the instant case, the applicant has joined only on 27.4.2001 and the order requiring him to hand over charge to respondent no.4 has been issued on 11.6.2001. He has thus put in less than two months of service. In view of this, his case is not covered under the above circular of the Director General, P&T, and he cannot claim alternative employment under that circular. This prayer is accordingly rejected.

8. In the result, therefore, the O.A. is held to be without any merit and the same is rejected. No costs.

  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

  
(SOMNATH SOM)  
23.10.2001  
VICE-CHAIRMAN

AN/PS