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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 326 OF 2001

Cuttack, this the 13th day of September, 2002.

PITABAS DAS.

....

APP LICANT.

VRS.

UNION OF INDIA & ORS.

....

RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Yes* ~~No.~~
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No.* ~~Yes~~

Arora
(B.N.SOM) 13/9/2002
VICE-CHAIRMAN

Manohar
13/9/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 326 OF 2001.
Cuttack, this the 13th day of September, 2002.

C O R A M:

THE HONOURABLE SHRI. B.N. SOM, VICE-CHAIRMAN
AND
THE HONOURABLE SHRI MANORANJAN MOHANTY, MEMBER(JUDICIAL)

...

PITABAS DAS, Aged about 30 years,
S/o. Deependra Kishore Das,
At/Po: Bharatpur, Dist. Kendrapara. ... APPLICANT.

By legal practitioner: M/s. P. V. Ramdas,
P. V. Balakrishna,
Advocates.

:Versus:

1. Union of India represented by the
Chief Postmaster General, Orissa Circle,
Bhubaneswar-751 001, Dist. Khurda.
2. Director of Postal Services(HQ),
PMG Square, Bhubaneswar-751 001,
Dist. Khurda.
3. Superintendent of Post Offices,
Cuttack North Division, Cuttack-1.

... RESPONDENTS.

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

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O R D E R

MR. MANORANJAN MOHANTY, MEMBER(JUDICIAL) :-

In this Original Application U/s.19 of the
Administrative Tribunals Act, 1985, the Applicant prays
for a direction to the Respondents to confer the
benefit of the Circular of the Director General of Posts
and Telegraphs dated 18- 5-1979 and for a further direction

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to the Respondents(more particularly, Respondent No.3) to consider the case of the Applicant for appointment to any of the E.D.Posts in the nearby village of Bharatpur in the District of Kendrapara.

2. The salient features, leading to filing of this Original Application are that the Applicant, Shri Pitabas Das, was selected by the Respondent No. 3 for the post of EDBPM,Bharatpur Branch Post Office, under Kendrapara Head Post Office on 31-3-1993. On receipt of complaint, regarding irregular selection of the Applicant, the Chief Postmaster General,Orissa Circle,Bhubaneswar(Respondent No.2) examined the selection files and observed certain irregularities in the process of selection of the Applicant to the post,in question and ,accordingly, notice of termination,under Rule- 6 of the EDAs(Conduct and Service) Rules,1964 was served on the Applicant under Annexure-R/1 dated 8-7-1993. Being aggrieved, the Applicant filed Original Application No.332/1993 before this Tribunal. Challenging the said selection and appointment of the Applicant in the post of E.D. B.P. M. ,Bharatpur Branch Post Office, another two Original Applications 462/1993 (by Smt.Sanjukta Mohanty) and 464/93 (by Shri Karunakar Behera) were also filed and this Tribunal , after hearing the learned counsel for both sides,in all these cases, in a common order delivered on 15-09-1993 directed the Respondent No.3 to undertake

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another selection process for the said post and complete the process of selection within 60 (sixty) days, after considering the candidatures of Sanjukta Mohanty, Karunakar Behera and the Applicant. It was further directed by this Tribunal that the Applicant shall be allowed to continue in the post till final selection is over.

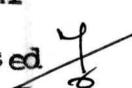
3. In the meantime, the educational qualification for the posts of EDBPM/EDSPM had been revised to that of Matriculation standard vide letter No.17-366/91-EDS and Trg. dated 12-03-1993 and it was directed in the said circular that the said revised qualification shall take effect from 01-04-1993. In compliance of the directions of this Tribunal dated 15-09-1993, the regular selection process was initiated and the selection was finalised on 28-01-1994 by the Res. No.3 and a report of the said selection was submitted to the Respondent No.2. In the said selection which was finalised on 28-1-1994, the Applicant, though he was not a matriculate was selected. The Respondent No.2 reviewed the matter and observed that the selected candidate (Applicant) not having passed the requisite qualification (i.e. Matriculation as the minimum qualification for EDBPMs/EDSPMs), the selection was not proper. It was further observed that the Applicant was selected being a candidate from UR community; whereas candidates from SC community were available. In this view of the matter, the Respondent No.2 held that the selection of the Applicant was irregular and, accordingly the Respondent

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NO.3 was asked to cancel the selection under Rule-6 of the EDAs(Conduct and Service) Rules,1964 and in pursuance of such direction,notice was served on the Applicant on 02-09-1994. Being aggrieved by the same, the Applicant moved this Tribunal in another O.A. NO.572/1994;wherein this Tribunal granted the interim stay on 27-09-1994 against the order of termination dated 02-09-1994.

4. While, on the strength of the interim order passed by this Tribunal on 27-09-1994 in OA No.572 of 1994, the Applicant was continuing as Extra Departmental Branch Post Master of Bharatpur Branch Post Office,complaints against the Applicant(alleging non-receipt of new pass books)were received by the Respondent NO.3 from Shri Sukadev Mallick and St.Ratnamani Roul. It has been disclosed in the counter by the Respondents,in the present case that on investigation,it was established that the Applicant had received cash and requisite documents for opening of new accounts, but instead of opening such new accounts and crediting the amount into Govt.Account on the date of receipt i.e. on 10-10-1996, the same was credited to the Govt.Account only on 26-11-1996. It has been disclosed further that the Applicant was examined during the investigation;where he admitted to have temporarily misappropriated the Govt.cash in his written statement dated 22-11-1996 and that for his above said action, the Assistant Supdt. of

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Post Offices of Kendrapara Sub Division placed the Applicant 'off duty' vide Memo dated 07-01-1997 and that the said order of 'put off duty' could not be served on the Applicant, as by that time he had left offices providing a substitute (from 08-01-1997 to 08-02-1997) without approval. In course of verification of the allegations made against the Applicant, the Assistant Superintendent of Post Offices of Kendrapara experienced non-cooperation from the Applicant. He also observed irregular functioning of the Post Office by the Applicant. It was noticed by the Department that the Applicant was involved in forgery in the matter of payment of money order. Taking all these facts into account, Assistant Superintendent of Post Offices of Kendrapara placed the Applicant again under 'off duty' vide Memo dated 04-11-1997 and the Over-seer mails attached to the Assistant Superintendent of Post Offices of Kendrapara was directed to take over the charge of the Bharatpur Branch Post Office. On the face of non-cooperation of the Applicant, the Assistant Supdt. of Post Offices of Kendrapara had to make separate arrangements for functioning of the Post Office. Applicant instead of making over the charge to the departmental authority, filed another Original Application No. 639/1997 before this Tribunal and even after the order No. 1 dated 10.11.1997 passed 

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by this Tribunal in OA No.639/1997, the Applicant did not hand over the detailed charges of the Branch Post Office and finally, both the Original Applications (No.572/1994 and No.639/1997) were rejected by this Tribunal.

5. In view of the order of this Tribunal, rejecting the claim made in the aforesaid Original Applications, order of termination of the services of the Applicant was issued vide Memo No.B/ED-75(Sub) dated 16-10-1998. The Applicant also avoided to receive the termination order and at last the Memo was served on the Applicant through the A. S.P. of Kendrapara on 17-01-1999.

6. The representation preferred by the Applicant on 29-01-2001 for reinstatement in service was considered by the Respondents and the same was rejected on dated 14-03-2001. Subsequent representations made by the Applicant were also considered and the same having been rejected under intimation to the Application on dated 02-05-2001, fresh selection process was undertaken by the Respondents for filling up of the post of Extra Departmental Branch Post Master of Bhadratpur Branch Post Office. One Shri Bijaya Kumar Das was selected for the said post and has been working as such since 26-05-2001.

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7. Respondents, who have filed counter by narrating the facts stated above have also objected to the grievance of the Applicant for conferment of the benefits available under DG Posts and Telegraphs Circular dated 18-05-1979 for appointment against any of the vacant posts of EDAs.

8. Having heard the learned counsel for the Applicant and Mr. A.K.Bose, learned Senior Standing Counsel for the Union of India appearing for the Respondents, we have looked into the circulars relied upon by the Applicant in support of his grievances/prayers, issued by the Director General of Posts on 18-5-1979. The relevant portion of the instruction is quoted herein below:-

"Efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge, they had put in not less than three years' service. In such cases their names should be included in the waiting list of ED Agents discharged from service, prescribed in DG P&T Letter No. 43-4/77-Pen, dated 23-2-1979".

(emphasis supplied)

9. On perusal of the records, it is crystal clear that the very entry of the Applicant to service was bad; for which the service of the Applicant was terminated. It was ~~not~~ for any administrative reasons. That apart, he served the Department for less than three years. Rest periods he served at the ~~grace~~ of this Tribunal, which should not be counted to give benefits

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of the DG P&T Circulars, quoted above.

10. In view of the above, the question of invoking the DGP&T Circular for giving the benefits to the Applicant does not arise.

11. In the result, therefore, this Original Application is dismissed being devoid of any merit, but however, without any order as to costs.

Ans
(B.N.SOM) 13/09/2002
VICE-CHAIRMAN

Manohar
13/09/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

KNM/CM.