

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O. A. NO. 72 OF 2001
Cuttack, this the 08th day of July, 2004.

Sukanta Ku. Das. Applicant.
-Vs.-
Union of India & Ors. Respondents.

FOR INSTRUCTIONS

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

Sukanta Ku. Das.
(B. N. S. OM)
Vice-Chairman

M. R. Mohanty
(M. R. MOHANTY)
Member (Judicial)
08/07/04

9

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.72 of 2001

Present: THE HON'BLE MR. B. N. SOM, VICE-CHAIRMAN
THE HON'BLE MR. M. R. MOHANTY, MEMBER(J)

Sukanta Ku. Das. ... Applicant.

-Vrs.-

Union of India & Ors. ... Respondents.

For the Applicant: Mrs. P. Priyambada, Counsel.

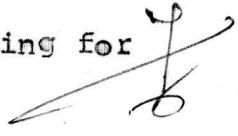
For the Respondents: Mr. S. B. Jena, ASC.

Date of decision: 08th July/2004.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER(JUDICIAL):

The post of Extra Departmental Mail Carrier (EDMC) of Jalanga Extra Departmental Branch Post Office (in account with Madhabanagar Sub Post Office) was lying vacant w.e.f. 09.10.2000 (consequent upon retirement/superannuation of Shri Dumain Bal, the regular incumbent of the Post) and in order to fillup the said vacancy notification No. B/EDMC/Jalanga dated 02.08.2000 was issued by the Asst. Supdt. of Post Offices in charge of Bhadrak Central Sub Division calling for



applications (from the intending candidates) for the post by fixing the last date (for receipt of applications) as 23.08.2000. But selection was not made for the post (by the ASPO in-charge of Bhadrak Central Division) and one Shri Dilip Kumar Das was appointed as EDMC of the Branch Post Office in question. In the said premises, the Applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985.

2. In the counter filed by the Respondents Postal Department, it has been disclosed that the above said Dilip Kumar Das (former ED messenger of Telegraph Branch of Bhadrak HO) who was working on deputation at Departmental Telegraph Office of Bhadrak (consequent upon (a) conversion of traffic branch of Bhadrak HO into a Telegraph Office w.e.f. 17.6.93 and (b) abolition of the post of ED Telegraph Messenger of Bhadrak HO) was appointed as ED Telegraph Messenger of Bhadrak HO w.e.f. 10.9.1979 and then he was working at DTO Bhadrak (due to nonavailability of vacant ED post in Bhadrak locality) from 17.6.1993 and was continuing there. The Telecom District Manager of Balasore (vide his letter No. E-5(51)/102 dated 28.12.1999) requested the Director of Postal Services (in the Hqrs. of Chief Postmaster General of Orissa at Bhubaneswar) to absorb said Shri Das in Bhadrak Postal Division. The C.P.M.G. of Orissa Circle at Bhubaneswar (vide CO letter No. ST-44/BDK/80 dated 24.2.2000) directed the SPOs of

J
6

Bhadrak Division to absorb said Shri Dillip Kumar Das (ED Telegram Messenger) as soon as a vacancy arises in his Division and, accordingly, instructions were issued to the ASPOs(I/c) Bhadrak Central SDI(P) Bhadrak East and SDI(P) Bhadrak West Sub Division by the Supdt. of Post Offices (Bhadrak) vide letter his No.A/101 dated 11.04.2000 to absorb the said Shri Dillip Kumar Das (ED Telegram Messenger) against any vacant ED post, if Shri Das gives his willingness to work against the said post, and a copy of the letter was also sent to Shri Das for his information. Said Shri Das (ED Telegram Messenger) submitted a representation dated 31.10.2000 with request to absorb him against the vacant post of EDMC Jalanga BO in account with Madhabanagar Sub Post Office. The said representation was sent to the ASPOs(I/c) Bhadrak Central Sub-Division by the SPOs Bhadrak Division vide letter No.B/ED/Misc./99/Ch.I dated 31.10.2000 with direction to accommodate Shri Das against the vacant post of EDMC Jalanga BO in account with Madhabanagar. Before absorption of Shri Dillip Kumar Das against any Extra-Departmental Post, Telecom District Manager, Bharat Sanchar Nigam Ltd. at Balasore took a very harsh decision and issued orders to the DTO-in-charge Bhadrak vide his letter No.E-5(51)/12 dated 30.11.2000 afternoon and directed said Shri Das to report before the Superintendent of Post Offices of Bhadrak Postal Division. In obedience to the orders issued

S

by the TDMC Balasore, the in-charge Telegraph Office of Bhadrak relieved Shri Das from his office on 1.12.2000 afternoon. Before his absorption against any ED post under this Postal Division, the TDM, BSNL Balasore relieved Shri Das from DTO Bhadrak and, as such, Shri Das remained out of job and he pressed hard for his absorption against the post of EDMC, Jalanga BO; which was lying vacant in the unit of ASPOs(I/c) Bhadrak Central Sub Division. Thereafter, Shri Dillip Kumar Das was absorbed against the vacant post of EDMC Jalanga BO by the ASPOs(I/C) Bhadrak Central Sub-Division (the Respondent No.3) and Shri Das joined the said post on 15.01.2001 afternoon. In the said premises, the applications received from the candidates (in response to the local notification issued by the ASPOs(I/C) Bhadrak Central Sub-Division vide Annexure-1) which were under scrutiny could not have been given any final touch. In the crucial moment (when the bread of Shri Das was snatched away by the TDM, BSNL, Balasore following to his relief from Bhadrak Telegraph Office on 1.12.2000 afternoon) Shri Das became job less and, as a retrenched candidate, his case was considered on priority basis and absorbed against the post of EDMC, Jalanga BO (in account with Madhabanagar SO) w.e.f. 15.1.2001 and his absorption, as such, was in conformity with provisions of rules framed by the Department of Posts (in DG Posts Letter No.17-60/95-ED & Trg. Dated 28.8.1996 circulated

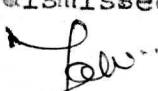
by CPMG(o), Bhubaneswar vide letter No. ST/10-1/65-50-PT IV/Rlg./95-96 dated 21.11.1996) and in the said view of the facts, the relief sought for by the Applicant is devoid of any merit and, therefore, the Respondents have prayed for dismissal of this case.

3. We have heard the learned counsel appearing for both the parties and perused the materials placed on record.

4. The vacancy which was notified to be filledup by open market candidates, had to be filled up by an existing surplus candidate of ED organisation, as explained in the counter filed by the Respondents-Department. It was done before any selection was made and, as such, none of the rights of the Applicant were infringed by the action of the Respondents-Department. By the action of the Respondents-Department, as explained in the counter, the vacancy notification has automatically stood recalled.

5. In the above premises, there remains nothing for this Tribunal to ~~adjudicate~~ ⁱⁿ this case in favour of the Applicant and, therefore, this case is dismissed. No costs.


(P. N. Sahoo)
Vice-Chairman


(M. R. MOHANTY)
Member (Judicial)