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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 669 of 2003
Cuttack, this the 7th day of December, 2004

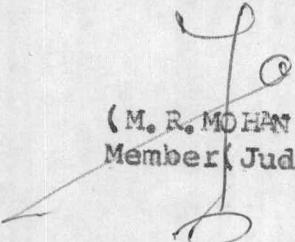
ANANTA KUMAR NAYAK, APPLICANT.

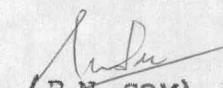
: VRS. :

UNION OF INDIA & ORS. RESPONDENTS.

FOR INSTRUCTIONS

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


(M.R. MOHANTY)
Member (Judl.)


(B.N. SOM)
Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH:

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O.A. NO. 669 OF 2003
Cuttack, this the 7th day of December, 2004

C O R A M:

THE HONOURABLE MR. B.N. SOM, VICE-CHAIRMAN
A N D
THE HON'BLE MR. M. R. MOHANTY, MEMBER (JUDICIAL)

...

ANANTA KUMAR NAYAK,
Aged about 44 years,
S/o. Late Karunakar Nayak,
Village: Odang,
PO: Akhuadakhini,
Via: Patkura,
Ps: Patkura,
DIST. KENDRAPARA.

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Applicant.

By legal practitioner: Mr. D. P. Dhalsamant, Advocate

-Versus-

1. Union of India represented through its Director General of Posts, Govt. of India, Ministry of Communications, Department of Posts, Dak Tar Bhawan, New Delhi-110 001.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, District-Khurda.
3. Director of Postal Services, Orissa, Bhubaneswar, Dist. Khurda.
4. Superintendent of Post Offices, Cuttack North Division, Cuttack-753 001.
5. Inspector of Post Offices, At/Po/Dist. Kendrapara-754 211. Respondents.

By legal practitioner: Mr. U. B. Mohapatra, Senior Standing Counsel.

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O R D E R

MR. B.N. SOM, VICE-CHAIRMAN:

Shri Ananta Kumar Nayak has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 ventilating his grievances that Respondents 4 and 5 have not given him appointment against any post of GDS; nor has he been shown the consideration being a retrenched candidate, as per the circular issued by the Director General of Posts.

2. The undisputed facts of this case are that the Applicant was appointed as EDDA -Cum-EDMC of Bagada Extra Departmental Branch Post Office in the year 1983 in the vacancy caused on account of put off duty of the permanent incumbent. The Applicant continued to serve in that capacity till 16-05-1986 i.e. more than three years continuously; when his services were terminated on account of appointment of one Shri Rama Chandra Mallick. Since then he has been knocking the doors of the Respondents to give him the benefit under Director General of Posts Circular dated 18th May, 1979 and 30th December, 1999; ^{relevant portion of} which reads as under :

"1. xx xx xx,

2. 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' continuous approved 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.

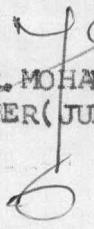
3. These instructions may be brought to the notice of all Appointing Authorities".

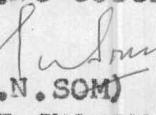
The Applicant had also visited this Tribunal in earlier round of litigation in O.A.No.551 of 1993 which was disposed of by order dated 31-07-1998 directing the Respondents to consider his candidature alongwith other candidates should he apply for any post of GDS and also to take into consideration his past service in accordance with law as laid down by the Full Bench of Central Administrative Tribunal at Ernakulam reported in 1992(3) SLR 190 (G.S.Parvathy v. Sub Divisional Inspector (Postal) and others). The grievance of the Applicant is that in spite of the said direction of this Tribunal, he has not been favoured with any appointment.

3. We have heard learned counsel for both sides and have also perused the materials placed on record including the Director General's circular as quoted above. As the Director General of Posts has laid down a scheme for providing alternative appointment 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' continuous service, we see no reason why ^{the} ~~some~~ consideration was not shown to this Applicant when he approached the Respondents. However, lot of time has passed in the meantime and it appears, the Applicant was denied of the benefits of the Director General's circular quoted above; which specifically provides for alternative employment to an ED Agent who discharged after retendering more than three years continuous service and such a consideration has to be made not ~~in~~ combined with other candidates but before making public advertisement of the post. We also understand that this is a procedure followed in all such cases of the Respondents-Department. That being the case, we direct the Respondents to consider the candidature of the Applicant strictly in terms of para 2 of the Director General of Posts Circular quoted above.

4. In the result, this Original Application is disposed of in the aforesated terms. No costs.


(M. R. MOHANTY)
MEMBER (JUDL.)


(B. N. SOM)
VICE-CHAIRMAN