

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 1271 of 2003
Cuttack, this the 25th day of July 2005

Shri Nakula Behera

..... Applicant

-VERSUS-

Union of India & others

..... 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*

9/10/08
(M.R. MOHANTY)
MEMBER (JUDICIAL)

✓ B.N. SARKAR
VICE-CHAIRMAN

V
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.1271 of 2003
Cuttack, this the 25th day of July, 2005

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

...

Nakula Behera, aged about 37 years, S/o Late Adhikari Behera, Vill-Nuapada, P.O.Mutapur, P.S./Dist.Khurda.

.... Applicant

Advocates for the applicant

.... M/s. M.Mishra,
D.K.Pattnaik &
B.K.Mishra.

Versus-

1. Union of India, represented by its Director General of Post, Dak Bhawan, New Delhi-110 001.
2. C.P.M.G., Orissa Circle, Bhubaneswar, Town/PO:Bhubaneswar, Dist:Khurda.
3. Senior Superintendent of Post, Puri Division, Town/Dist. Puri.
4. Assistant Superintendent of Post, Office-in-charge, Khurda Sub-Division, At/PO./Dist.Khurda.
5. Pramed Kumar Das, At-Saradhapur Branch Post Office, PO.Saradhapur, Dist.Khurda.

.... Respondents

Advocates for the Respondents

.... Mr.U.B.Mehapatra.

.....

O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN: Shri Nakula Behera has filed this O.A. being aggrieved by the inaction of the Respondents in *.....* disposal of his representation

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dtd.23.9.92, complaining that the Assistant Superintendent of Post Offices, Khurda Division has compelled him to handover the charge of the office of EDDA/EDMC of Saradhapur BO without reason.

2. The case of the applicant in a nutshell is that Res.No.4 had appointed him on provisional basis on 1.12.90 and that appointment was being extended from time to time by the said authority, in the first instance from 1.4.91 to 30.9.91 and then from "1.10.91 to 31.3.92 or till the regular appointment is made which ever is shorter." The grievance of the applicant is that when he was working to the best satisfaction of the higher authorities, his appointment was not extended in the said post and in his place, Res.No.5 was illegally appointed on 18.12.91, that too prior to the completion of his tenure. His further allegation is that Res.No.5 was not regularly selected and thus his adhoc appointment was terminated by making another adhoc appointment which is not permissible under law. He has, therefore, assailed the appointment of Res.No.5 as illegal, arbitrary and malafide. He has also assailed the action of the Respondents as bad on the ground that he being an ST candidate he was eligible to be appointed to the post of EDDA/EDMC (now GDSMD/MC) and therefore termination of his service was bad in law.

3. Per contra, the Respondents have opposed the application and have taken the position that the applicant has grossly misrepresented the facts of the case. The fact of the matter is that he was provisionally appointed on

1.12.90 when the regular incumbent of the post of GDSMD/MC fell vacant. His appointment was later on extended from 1.10.91 to 31.3.92 with the condition that if the regular arrangement was made earlier, his tenure could be terminated earlier. In the meanwhile, Res.No.4 had placed the requisition with the Employment Exchange, Khurda which had sponsored ten candidates including the name of Res.No.5 but did not include the name of the applicant. After examining the merit of the candidates, he selected the most meritorious candidate, i.e., Res.No.5. He was given provisional appointment as per the procedure laid down for appointment of Gramin Dak Sevak. According to the said procedure, initial appointment is made on provisional basis to enable the administrative authorities to complete the formalities regarding regular appointment of the Respondents candidate. Thus they have argued that the allegation that one provisional candidate was replaced by another provisional candidate is not borne out by the facts of the case and on this ground this O.A. deserves to be dismissed. They have also submitted that in the letter extending the provisional appointment of the applicant vide the order dtd.5.1.91 (Annexure-2) it was clearly stated that his service was being extended from 1.10.91 to 31.3.92 or till the regular appointment is made which ever period is shorter. As the regular appointment to Group-D would be made earlier than 31.3.92, his service was terminated earlier.

4. We have heard the Ld.Counsel for both the parties

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and have perused the records placed before us.

5. Having regard to the facts of the case, we find that the candidature of Res. No. 5 having been duly sponsored by the Employment Exchange, there was no irregularity in his appointment and the allegation made by the applicant that one adhoc appointment was terminated by making another adhoc appointment is devoid of merit.

6. In the circumstances this O.A. fails. We order accordingly. No costs.

Subhan
25/03/05
(M.R. MOHANTY)
MEMBER (JUDICIAL)

N.S.
(B.N. SOM)
VICE-CHAIRMAN

SAN/