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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application Nos. 685 of 2006  
Cuttack, this the 17<sup>th</sup> day of April, 2007.

Bhagabata Lenka ... Applicant  
Versus  
Union of India and Others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Y/N*
2. Whether it be circulated to all the Benches of the CAT or not?

*forwards*  
(M.R.MOHANTY)  
VICE-CHAIRMAN

*BBM/2*  
(B.B.MISHRA)  
MEMBER(A)

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## CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK.

O.A.No. 685 of 2006  
Cuttack, this the 17<sup>th</sup> day of April, 2007

### C O R A M:

THE HON'BLE MR. M.R.MOHANTY, VICE-CHAIRMAN  
AND  
THE HON'BLE MR.B.B.MISHRA, MEMBER (A)

Sri Bhagabata Lenka, Aged about 39 years, son of late Trilochan Lenka, a permanent resident of Adhanga, Post: Bhagabanpur, Dist. Kendrapara, at present working as Sweeper-cum-waterman on contingent basis in the office of the Phulnakhara Sub Post Office, Cuttack and as GDS Packer-Cum-MC, Rajabagicha Sub Post Office, Cuttack.

..... Applicant

By legal practitioner: Mr.D.K.Mohanty, Advocates

### -Versus-

1. Union of India represented through its Director General of Posts, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda.
3. Senior Superintendent of Post Offices, Cuttack City Division, Cuttack.
4. Inspector of Post Offices, Cuttack North Sub Division, Cuttack.

...Respondents.

By legal practitioner: Mr.U.B.Mohapatra, SSC.

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## O R D E R

### MR.B.B.MISHRA, MEMBER(A):

Applicant has been discharging his duties as a part time sweeper cum waterman in the Fulnakhara Sub Post Office since 01.01.2001. He has been given his remuneration from contingent for one hour work daily. Consequent upon the Gr. D vacancy caused in Rajabagicha SO, and as no other GDS officials were readily available, the Applicant was allowed to work on daily wage basis against the said vacant post of Gr. D of Rajabagicha SO from 27.12.2005 to 28.2.2006 and 1.5.2006 to 30.06.2006. It is the case of the Applicant that he has earlier filed OA No. 663 of 2006 praying appropriate direction to the Respondents to suitably adjust him against any of the GDS vacancies lying under the Respondents and the said OA was disposed of on 19.09.2006 with direction to the Respondents to consider the request of the engagement of applicant against any vacancies if exist or will be available in future keeping in mind his experience. By filing this OA, he has prayed that since Gr. D vacancy is available in Rajabagicha SO in which post he has been continuing on daily wage basis, in

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compliance of the directions of this Tribunal and he has a right to be regularized as per the DGP&T instructions, a direction may be issued to the Respondents to regularize him against the said post.

2. Respondents have filed their counter stating that the Gr. D post of Rajabagicha SO against which the applicant was engaged on daily wage basis has since been abolished with effect from 31.07.2006. They have stated that there is a ban on regular recruitment of any of the GDS. They have maintained that though there was a direction in OA No. 187 of 2003 dated 05.06.2003 to consider the case of applicant against the vacant post of GDSMD, Barimunda BO, if he is otherwise suitable, there was no opportunity to consider his case as the entire recruitment process to fill up the vacant GDS MD post of Baramund BO has been kept in abeyance due to ban order. They have also given suitable explanation so far as other grievance raised by the Applicant in this OA. But for the present we are not inclined to record, as his prayer is for regularization against the Gr. D post available in Rajabagicha SO. In the above back grounds, the Respondents have opposed the  prayer of the Applicant.

3. Having heard the rival submissions of the parties, we have minutely looked into the connected papers submitted by both sides.

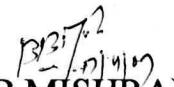
4. In view of the specific stand taken by the Respondents that the Gr. D post in Rajabagicha SO has since been abolished with effect from 31.07.2006, there remains nothing more to be adjudicated in this OA; as law is well settled that creation and abolition of post are within the ambit and power of the executive and court should not ordinarily interfere in it. It has also been stated by the Respondents that there is a complete ban on the recruitment of GDS.

5. In view of the above, we find no merit in this OA which stands dismissed. No costs.

6. However, we may reiterate that if there would be any recruitment to GDS and the applicant applies for being considered and fulfills the conditions stipulated therein, his case may be considered along with others by giving necessary premium to the experience gained by him as per decisions of the Chandigarh

Bench of this Tribunal in **Sher Singh v. Union of India and others**, 1997 (2) (CAT) AISLJ 303; and Full Bench in **G.S.Parbathi (Postal) and others v. Union of India and Others** (OA No. 29/90).

  
(M.R.MOHANTY)  
VICE-CHAIRMAN

  
(B.B.MISHRA)  
MEMBER(A)

KNM/PS.