

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK  
ORIGINAL APPLICATION NO. 624 OF 2002 & C.P.39/2002  
Cuttack, this the 5<sup>th</sup> day of January 2004


Sri Artatran Panda ..... Applicant

Vrs.

Union of India and others ..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? 72
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? 120

  
(M.R. MOHANTY)  
MEMBER (JUDICIAL)

  
(B.N. SOM)  
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 624 OF 2002

&

CONTEMPT PETITION NO. 39 OF 2002

Cuttack, this the 5<sup>th</sup> day of January 2004

CORAM:

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

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

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Shri Artatran Panda, son of late Banamali Panda, aged about 62 years,  
C/o C.D.Mohanty, Khadakhia Baidyanath Lane, Bhubaneswar -2

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Applicant

Advocate for the applicant -

M/s. K.C.Kanungo, R.N.Singh  
and B.P.Das

Vrs.

Union of India, represented through

1. The Secretary cum D.G.Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Orissa, Bhubaneswar.
3. The Sr.Suptd. of Post Offices, Bhubaneswar Division, Bhubaneswar 9.
4. The Sub-divisional Inspector (Postal), Bhubaneswar South Sub-Division, Unit 6, Bhubaneswar 1.
5. The Sub Postmaster, Bhubaneswar 2, Dist.Khurda.
6. Sri Jaganath Satpathy, At Sundarpada, P.O.Bhubaneswar 2, Dist.Khurda.

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Respondents

Advocate for the Respondents -

Mr.A.K.Bose, Sr.CGSC.  
& M/s S.K.Mishra, B.B.Nayak

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CONTEMPT PETITION NO. 39 OF 2002

Shri Artatran Panda, son of late Banamali Panda, aged about 62 years,  
C/o C.D.Mohanty, Khadakhia Baidyanath Lane, Bhubaneswar -2

Advocate for the petitioner -

Petitioner.

M/s. K.C.Kanungo, R.N.Singh  
and B.P.Das

Vrs.

1. Sri Manu Vyus, the Chief Postmaster General, Orissa Circle, P.S.Kharvela Nagar, Bhubaneswar 1, Dist.Khurda.
2. Gouranga Jena, Sr.Suptd. of Post Offices, Bhubaneswar Division, Forest Park, Bhubaneswar 9, Dist.Khurda
3. Dilip Kumar Samal, Sub-divisional Inspector (Postal), Bhubaneswar South Sub-Division, Unit 6, Bhubaneswar 1, Dist.Khurda.
4. Sri Haribandhu Samantsinghar, Sub Postmaster, Bhubaneswar 2, Dist.Khurda.

Opp.Parties.

Advocate for the Opp.Parties -

Mr.A.K.Bose, Sr.CGSC.  
& M/s S.K.Mishra, B.B.nayak

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

Original Application No. 624 of 2002 has been filed by Shri Artatran Panda challenging the order passed by Respondent No.4 terminating the provisional appointment of the applicant as GDS Stamp Vendor, Bhubaneswar 2.

2. The case of the applicant is that on 7.9.2000 he was provisionally appointed as GDS Stamp Vendor, Old Town Sub Post Office,

Bhubaneswar. While he was working in that post, on 10.7.2002 he received a letter dated 7.7.2002 (Annexure 4) informing him that his services would be terminated from the date one Shri Jaganath Satpathy takes over the charge of GDS Stamp Vendor, Old Town Sub-Post Office. The said Shri Satpathy (Respondent No.6) was being appointed in that post as he was declared surplus on conversion of Sundarpada B.O. as a no-delivery B.O. He brought the matter to the notice of this Tribunal and obtained an interim order on 15.7.2002 that he should be allowed to continue as before until further orders. The applicant on 16.7.2002 represented to Respondent No.5 enclosing a copy of the order of the Tribunal to allow him to continue as Stamp Vendor and copy of the said representation was endorsed to Respondent Nos. 3 and 4, but the same did not yield any result. He represented to Respondent No.2 stating that the order of the Tribunal was being violated, but that also yielded no result. On the other hand, Respondent No.4 issued a letter to the applicant to hand over the key of the Stamp Box immediately to his reliever. The applicant filed C.P.No.39 of 2002



against the Respondents for violating the order of the Tribunal dated 15.7.2002.

3. The Respondents have filed a detailed counter in this matter explaining the circumstances in which the applicant was appointed on provisional basis and the circumstances in which his services have to be terminated to accommodate a regularly appointed ED Agent on being declared surplus.

4. We have heard the learned counsel for both the parties and have also perused the records placed before us.

5. The issue involved in this O.A. has two three angles. In the first instance, the issue raised by the applicant is, whether in terms of the service contract between him and the departmental Respondents (Annexure 1) Respondent No.4 has any legal power to terminate his provisional appointment until the regular incumbent, namely, Shri B.B. Mohanty is taken back in service or before the regular appointment is made to the post. The second angle to the case is that on 7.7.2002 the Respondent-Department having declared Sundarpada B.O. as a no delivery B.O., the post of GDSMD of that B.O. became surplus and the incumbent of that post was to be accommodated by the Respondents in terms of the D.G.P & T's letter dated 23.2.1979 with

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regard to absorption of surplus ED Agents. But in terms of the service contract (Annexure 1) entered into between the Respondent-Department and the applicant, his services could be terminated either on re-joining/reinstatement of Shri B.B.Mohanty, the earlier post-holder or on filling up the post on regular basis. As disclosed by the Respondent-Department, the post-holder of GDSMD, Sundarpada B.O. was a regularly appointed GDSMD who had to be re-deployed and given an alternative post on becoming surplus and such an appointment has to be given in a nearby place. In the circumstances, if the post-holder of GDSMD, Sundarpada B.O. was to be given regular appointment against the post of GDS Stamp Vendor, Old Town S.O., Bhubaneswar, which was at that time being provisionally held by the applicant, was not the Departmental-Respondent duty bound to give notice to the applicant stating that they having decided to make regular appointment against the post of GDS Stamp Vendor, Old Town S.O., his services were being terminated. Our answer to this question is in the affirmative. The Respondent-Department have not, however, come out clearly either in counter or during oral submissions, whether they have removed shri B.B.Mohanty, the regular post-holder of GDS Stamp Vendor from his post due to his unauthorized absence thus causing a clear vacancy against which they had decided to adjust Shri Jaganath Satpathy, a surplus GDSMD. As they have not disclosed these facts before us, we are unable to accept that termination of service of the

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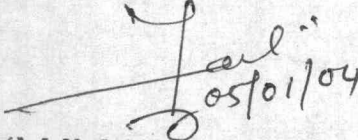


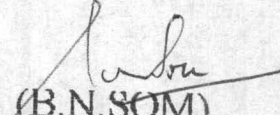
applicant was being done correctly in terms of the contract made under Annexure 1. They could also be held guilty of contempt of the Tribunal in not allowing the applicant to continue as GDS Stamp Vendor in terms of its order dated 15.7.2002, but for their disclosure in the showcause to CP No.39 of 2002 that the order of this Tribunal was received by them on 17.7.2002 whereas the order of termination of the applicant took place on 10.7.2002. However, we feel distressed to observe that as soon as the departmental Respondents had received the stay order of this Tribunal dated 15.7.2002, they should have approached the Tribunal to narrate the circumstances in which its order could not be carried out. Their silence in this matter is highly reprehensible and we, therefore, call upon Respondent No.1 and others to take note of their lapses in this regard and to be more careful in future in implementing the orders of the Tribunal. The order of termination issued to the applicant, for the reasons as we have discussed earlier, is found to be bad in law and therefore, deserves to be quashed, being made in violation of the principles of natural justice and in total violation of the service contract dated 7.9.2000 (Annexure 1). As the termination of service of the applicant was bad in law, the applicant is entitled to back wages with effect from 10.7.2002. During oral submissions, the learned counsel for the applicant submitted that the applicant is not keen to continue further in the job and, therefore,



we do not order his re-induction as GDS Stamp Vendor but allow him to go out of the job once his back wages are paid to him.

6. With the above observation and direction, the Original Application is allowed and C.P.No.39 of 2002 is disposed of as dropped. No costs.

  
(M.R. MOHANTY)  
MEMBER(JUDICIAL)

  
(B.N. SOM)  
VICE-CHAIRMAN

AN/PS