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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 965 of 2002
Cuttack, this the 17th day of December, 2004

Upendra Bhoi.

Applicant.

-Vrs.-

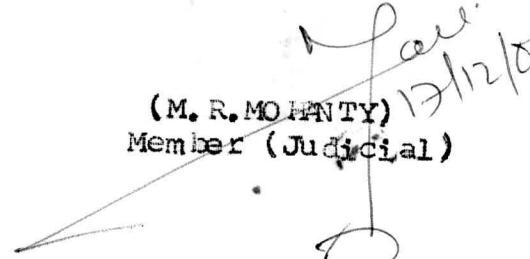
Union of India & Ors.

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


(B.N. Sasmal)
Vice-Chairman


(M.R. Mohanty)
Member (Judicial)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 965 of 2002
Cuttack, this the 17th day of December, 2004

CORAM:

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

....

UPENDRA BHOI, aged about 18 years,
S/o Ujwal Bhoi, Village-Dungiritikra,
Sarsara, Bargarh, at present working
as GDSBPM, Sarsara Branch Post Office,
Bargarh.

..... APPLICANT.

By legal practitioner: M/s. D. P. Dhalsamant, D. K. Mohanty,
Advocates.

-Versus-

1. Union of India represented through
its Director General of Posts,
Govt. of India, Ministry of Communication,
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi-110 001.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar,
District-Khurda-1.
3. Superintendent of Post Offices, Sambalpur Division,
Sambalpur-768 001.

.... RESPONDENTS.

By legal practitioner: Mr. U. B. Mohapatra,
Addl. Standing Counsel (Central).

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ORDER

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Applicant Upendra Bhoi while working as
GDSBPM of Sarsara Branch Post Office faced the termination

notice under Annexure-2 dated 11-10-2002 and in the said premises, he has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985. He has challenged the said termination notice on the ground that the same had been issued in gross violation of the principles of natural justice/Art. 14 of the Constitution of India.

2. Respondents, by placing a counter, have disclosed that on the basis of a complaint (received by the Director of Postal Services, Sambalpur) the entire process of recruitment to the post, in question was examined/re-examined and it was found by the Director that two other persons, though secured more marks than the Applicant and otherwise eligible were ignored in the selection process and the Applicant was unjustly selected and appointed. It was also observed that the Applicant had secured less marks than other candidates, who were in the selection. As regards the point for compliance of the principles of natural justice, it has been answered that since under the Rules, it has been provided that for termination of the services of an EDA, who has not completed three years of service, no show-cause notice is required to be given and only one month's notice (or one month's pay in lieu thereof) is to be given to the person concerned and that by paying one month's TRCC + DA etc, Applicant's services were terminated under Annexure-2 dated 11-10-2002

and, therefore, there were no wrong committed by the Respondents in terminating the services of the Applicant.

3. Heard learned counsel appearing for the parties and perused the materials placed on record. Learned counsel for the Applicant, during the course of argument, has pointed out that when the Applicant was visited with the harsh situation like termination, as per various judicial pronouncements/judge-made-laws, it was incumbent on the part of the Respondents to issue show cause notice to the Applicant to have his say in the matter. Further it was stated that the Applicant having no role in the matter of selection and appointment, the notice of termination throwing the Applicant out of job is bad in law. Learned Counsel appearing for the Respondents, while reiterating the averments made in the counter, has stated that since Rule does not provide for such notice and since more befitting persons were found ignored in the matter of selection, there was nothing wrong in terminating the appointment of the less meritorious Applicant.

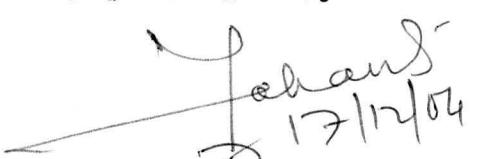
4. We have given our anxious consideration to the issues raised by the respective parties. The question raised by the learned counsel for the Applicant is no more res-integra and the same had already been set at rest in very many cases decided earlier, by this

Tribunal. However, on perusal of the Rules it is also seen that there is no provision for issuing show cause notice before terminating the services of an EDDA placed like the Applicant; especially when it is a fact that the Applicant did not complete three years of service as an ED Agent. As per the details given by the Respondents in their counter, it is also seen that persons having more percentage of marks (in their educational qualification) than the Applicant were unjustly ignored for no reason.

5. In the above said premises, we find no merit in this O.A. which is accordingly dismissed.
No costs.


(B.N. SOM)

Vice-Chairman


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

17/12/04