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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 15 of 2003  
Cuttack, this the 29th day of April 2005

Shri Yudhistir Pradhan

..... Applicant

- VERSUS -

Union of India & others

..... Respondents

FOR INSTRUCTIONS

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

*M.R. Mohanty*  
29/04/05  
(M.R. MOHANTY)  
MEMBER (JUDICIAL)

*B.N. Som*  
(B.N. SOM)  
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.15 of 2003  
Cuttack, this the <sup>24th</sup> day of <sup>April</sup> 2005

CORAM:

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

AND

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

...

Shri Yudhisthira Pradhan, 24 years, S/o Sri Parsuram Pradhan  
At: Morighat, PO: Alatar, Via: Madanpur Rampur, Dist: Kalahandi.

..... Applicant

Advocates for the applicant

..... M/s. P.K.Padhi,  
M.P.J.Ray &  
P.K.Padhi

Versus-

1. Union of India, represented by it's Chief Post Master General (Orissa Circle), At/PO: Bhubaneswar, Dist: Khurda, PIN-751001.
2. Superintendent of Post Offices, Kalahandi Division, At/PO: Bhawanipatna, Dist: Kalahandi, 766001.
3. Shri Jugeswar Bhoi, GDS BPM, At/PO- Gecchadangen, Via- M. Rampur, Dist. Kalahandi.

..... Respondents

Advocates for the Respondents

..... Mr. U.B. Mohapatra,  
(Ld. SSC)

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN:

Shri Yudhisthira Pradhan has filed this O.A. praying for a direction to be issued to the Respondents to allow him to join as GDS BPM, Gochhadangen Branch Post-office and to give him all consequential service benefits.

2. The undisputed facts of the case are that one Murali Bhoi who was earlier incumbent of the post expired on 13.2.01 whereupon his legal heir/son Jugeswar Bhoi approached the Respondents Department for compassionate appointment. The application of Shri Bhoi was considered by the Circle Relaxation Committee (CRC) but was rejected by their order dtd.1.4.02. Being aggrieved, Shri Bhoi approached this Tribunal in O.A.No.633/02 challenging the rejection of his claim. In the meantime, the Respondents appointed the applicant in the present post on provisional basis subject to satisfactory verification of documents submitted by him and his providing suitable accommodation for the post office in the post village. The Tribunal by its interim order dtd.13.8.02 stayed the order of rejection of the claim of Shri Bhoi for compassionate appointment. Thereafter, Circle Relaxation Committee reconsidered the claim of Shri Bhoi and approved his compassionate appointment as GDS BPM, Gochhadangen, BO by their order dtd.28.2.03.

3. The Respondents in their counter have submitted that the applicant was selected for the post of GDS BPM, Gochhadangen By their order dtd.24.5.02 but he was not appointed to the said post. Hence they said that the

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avermment of the applicant that the post of GDS BPM, Gochhadengen was filled up in a regular selection process is not correct and therefore the appointment of the applicant to the said post does not arise. They have also submitted that the applicant can not claim any right for appointment as GDS BPM, Gochhadengen after compassionate appointment of Shri Bhoi against that post.

4. We have heard Ld. Advocates for the rival parties and have also perused the records placed before us.

5. The sole question to be answered in this case is whether the applicant was regularly selected for the post and whether Shri Jugeswar Bhoi had any vested right to the post of GDS BPM, Gochhadengen. To resolve the issue, we have referred to the Tribunal's decision in O.A.No.633/02 dtd.21.11.03 (disposed of in single Bench). In the said O.A., the Tribunal had only quashed the order of rejection of the prayer of Shri Bhoi for compassionate appointment and had only directed the Respondent Department to give a fresh look to the matter. What is more important is that it had passed specific order with regard to the prayer of Shri Bhoi to quash the appointment of Res.No.3 in that case, that is Shri Yudhisthir Pradhan, the applicant in this case. After considering the prayer, the Ld. Single Bench was pleased to reject the said prayer on the ground that "the applicant cannot have indefeasible right to claim for compassionate appointment against a particular post."

6. In the face of such a clear cut order of the Tribunal

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dtd.21.11.03, the Respondents could not have taken the stand as they have taken in the counter or they could not have appointed Shri Bhoi to the post of GDS BPM, Gochhadengen in preference to the applicant. We find that the counter was filed by them on 29.9.03 and the order of appointment of Shri Bhoi issued on 28.2.03, that is much before the passing of the order by this Tribunal in O.A.No.533/03. However, the fact remains that no candidate for compassionate appointment could claim an indefeasible right to hold a particular post. Because the compassionate appointment scheme does not rest on the principle of succession. In the circumstances, as the order passed on 21.11.03 declared that the right of the applicant, in this O.A., is far superior to the right of Shri Bhoi, it <sup>is</sup> was incumbent on the part of the Respondents Department to correct their mistake by appointing the applicant to the post of the GDS BPM, Gochhadengen provided he had fulfilled the conditions laid down in their letter dtd.24.5.02 (Annexure-1).

7. In view of the above discussion, we hereby direct the Respondents to allow the applicant to join as Gramin Dak Sevak of Gochhadengen Branch Post Office with immediate effect by replacing Shri Jugeswar Bhoi whose claim to the same post had already been rejected by this Tribunal. We, However, direct the Respondents to offer an alternative job to Shri Jugeswar Bhoi under compassionate quota.

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8. Accordingly this O.A. is disposed of. No costs.

*Law*  
*29/04/05*  
(M.R. MOHANTY)  
MEMBER (JUDICIAL)

*B.N. Som*  
( B.N. SOM )  
VICE-CHAIRMAN

SAN/