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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.447 OF 2012

Cuttack this the ^{20th} day of June, 2017

Nagendra Nath Biswal. ...Applicant

-VERSUS-

Union of India &Ors. ...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ?


(R.C.MISRA)
MEMBER(A)


(A.K.PATNIK)
MEMBER(J)

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O.A.No.447 OF 2012

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*HOH'BLE SHRI A.K.PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)*

Sri Nagendra Nath Biswal, aged about 46 years, S/o. Biswanath Biswal, At/PO-Badas, Via: Pratappur, Dist-Balasore

....Applicant

By the Advocate(s)-Mr.D.K.Mohanty

-VERSUS-

Union of India represented through:

1. The Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001
2. The Superintendent of Post Offices, Balasore Division, Balasore
3. The SDI(P) Jaleswar (West) Sub-Division, Jaleswar, Balasore

...Respondents

By the Advocate(s)-Mr.S.Behera

ORDER

A.K.PATNAIK MEMBER(J):

In this Original Application under Section 19 of the A.T.Act, 1985, the applicant has prayed for a direction to be issued to the respondents to consider his case for regular engagement in any GDS vacancies lying under the disposal of Respondent No.2.

2. Facts in brief are that the applicant claims to have worked for 310 days as substitute EDDA in different spells from July,

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1997 and in this connection, he has produced copies of orders of engagement vide documents as A/1 series. He submitted several representations vide A/2 series to the Superintendent of Post Offices, Balasore Division (Resp.No.2) seeking regularization against one of the vacancies in any G.D.S Posts in view of D.G. Posts instructions dated 17.5.1989 and since he did not receive any response, he has moved this Tribunal by filing the present O.A seeking relief as mentioned above. To fortify his claim, the applicant has relied upon various decisions of the Tribunal including that of the Full Bench in O.A.No.315 of 1990 disposed of on 06.02.1992 in which it has been held that the applicant therein having worked for 240 days as substitute basis has a right to be regularized.

3. Respondents by filing their counter have opposed the prayer of the applicant. According to them, the applicant in total had been engaged for 389 days as substitute in place of one Upendranath Biswal, as and when he proceeded on leave. The Respondents have submitted that there is no provision in the recruitment rules to give recognition of part service rendered by any substitute as has been rendered by the applicant.

4. We have heard the learned counsel for both the sides and perused the records. In the O.A., the applicant has brought to our notice the decision of the Calcutta Bench of this Tribunal rendered in the case of Smt. Durga Bhowmick and others vs. Union of India & Ors. reported in [1989] 11 ATC 255 and the decision by the Full Bench of



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this Tribunal rendered in O.A.No.315 of 1990 (Raghunath Naik vs. Union of India &Ors.) affirming the view expressed in Durga Bhowmick case (supra) to the effect that the applicant having worked for 240 days on substitute basis, has a right to be regularized. Applicant has brought to the notice of the Tribunal another decision of the Ernakulam Bench of this Tribunal rendered in case of GS Parabathi (Postal)& Others. vs. Union of India & Others (O.A.No.29/90) in which it has been held that weightage should be given to the experience gained by an employee. Applicant has filed the instructions issued by the Department of Posts annexed under A/3 in which it has been laid down that for the purpose of Group-D, the substitutes will rank last in priority, but will be above outsiders, in the following order.

- i) NTC Group D official
- ii) EDAs of the same Division
- iii) Casual labourers (full time or part-time). For purpose of computation of eligible service, half of the service rendered as a part-time casual labourer should be taken into account. That is, if a part-time casual labourers has served for 480 days in a period of 2 years, he will be treated, for the purpose of recruitment, to have completed one year of service as full time casual labourer).
- iv) EDAs of other divisions in the same Region
- v) Substitutes (not working in Metropolitan cities).

5. In the instant case, the relief sought for by the applicant is to consider his case for regular engagement in any GDS vacancy

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lying under the disposal of the Respondent No.2. There is nothing on record to show that there exists any vacancy in any GDS cadre under the Respondent No.2. Be that as it may, following the decision of various decisions as referred to above, we would direct that in case any selection in the cadre of GDS takes place in the near future and the applicant makes an application for the same in pursuance of any notification/advertisement issued in this regard by the Department, the case of the applicant shall be considered along with others provided he fulfills the terms and conditions of appointment for the post in question and in such eventuality, the experience gained by him as substitute may be taken into account.

6. With the observation and direction as aforesaid, the O.A. is disposed of. No costs.



(R.C.MISRA)
MEMBER(A)



(A.K.PATNIK)
MEMBER(J)