

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.**

ORIGINAL APPLICATION NO. 173 OF 1987.

Date of decision : September 16, 1987.

Sri Ajay Kumar Pati, aged about 33 years,
S/o Sri Aparti Charan Pati, Vill. Ramadha,
P.O. Kharasahapur, Via. Anantapur, Dist.
Balasore

Applicant.

Versus

1. Union of India, represented by the Secretary, Department of Communications, Government of India, New Delhi.
2. Postmaster General, Orissa Circle, Bhubaneswar, Dist. Puri.
3. Superintendent of Post Offices, Balasore Division, Balasore.

... **Respondents.**

M/s. P.K.Ray, &
B.K.Panda, Advocates ...

For Applicant.

Mr. A. B. Mishra, Senior Standing Counsel
(Central) ...

For Respondents.

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K. P. ACHARAYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant challenges the order passed by the Superintendent of Post Offices, Balasore Division rejecting the application of the applicant for appointment as Extra-departmental Branch Postmaster, Aruhabad Post Office, contained in Annexure-5.

2. Shortly stated, the case of the applicant is that he was appointed as Extra-departmental Branch Post Master of Kharasahapur Branch Post Office within the district of Balasore on 9.8.1977 vide Annexure-1. The appointment of the present applicant to the said post was due to vacancy created in the said Post Office by virtue of the fact that the predecessor of the applicant namely, Bhaskar Chandra Palai was proceeded against for having committed certain criminal offence. The said Bhaskar Chandra Palai was ultimately removed from service for which he had invoked the extraordinary jurisdiction of the Hon'ble High Court of Orissa by filing an application under article 226 of the Constitution praying therein to quash the order of removal from service. This formed subject matter of O.J.C.No.1461 of 1981, renumbered as Transferred Application No.169 of 1986. The above mentioned transferred application came up before this Bench for hearing and judgment. After hearing counsel for both sides, this Bench vide its judgment dated 7.11.1986 allowed the application and quashed the order passed by the competent authority removing the said Bhaskar Chandra Palai from service and this Bench further directed that Bhaskar Chandra Palai should be immediately reinstated. In consequence thereof, the

competent authority had no other option but to reinstate the said Bhaskar Chandra Palai and eventually discharged the present applicant from service. While communicating the order of reinstatement of the said Bhaskar Chandra Palai and while directing the present applicant (Ajay Kumar Pati) to hand over charge of the office to Bhaskar Chandra Palai vide memo No.B/E-354 (sub) dated 2.1.1987, the Superintendent of Post Offices, Balasore Division, endorsed a copy of the said letter to the present applicant, Ajay Kumar Pati in which it was stated as follows :

" Shri Ajaya Kumar Pati, Offg. EDBPM, Kharasahapur BO in account with Anantapur S.O. under Balasore H.O. for information. He will please hand over charge of Kharasahapur B.O. to Shri Bhaskar Chandra Palai in presence of the S.D.I. (P) Soro Sub-Dn, Soro. He may apply for his appointment in any other ED Post available in the vicinity within a year from the date of making over charge of the BO for consideration within the purview of EDAs (Conduct & Service) Rules, 1964. "

Accordingly, the present applicant, Ajay Kumar Pati handed over charge of his office to Bhaskar Chandra Palai and vacated the said office. Thereafter, it is said that a vacancy occurred in Aruhabad Extra-departmental Branch Office in account with Gopalpur Sub-Office and the present applicant (Ajay Kumar Pati) made an application for appointment to the said post which has been rejected by the Superintendent of Postoffices, Balasore Division contained in Annexure-5, on the ground that the present applicant, Ajay Kumar Pati does not belong to the post village Aruhabad. Hence,

Annexure-5 is under challenge.

3. It was submitted by Mr.P.K.Ray, learned counsel for the applicant that once the Superintendent of Postoffices had taken a sympathetic view over the applicant which is apparent from the contents of memo endorsed to the applicant (quoted above) it was no longer open to the Superintendent of Postoffices to again take a contrary view by insisting that the applicant not being the resident of the Post village his application stands rejected. Once Bhaskar Chandra Palai has been reinstated to the Kharasahapur Post Office there ~~can~~ ^{cannot} be any ~~other~~ ^{further} scope for appointment of the applicant in ~~any~~ ^{in some} post and sympathetic attitude taken by the Superintendent of Post Offices in Annexure-2 would ultimately become redundant and the applicant cannot derive any fruit from the said sympathy.

4. We have heard learned Senior Standing Counsel (Central), Mr.A.B.Mishra, on this question. We have no doubt in our mind to say that the Superintendent of Post Offices in Annexure-2 has stated that the case of the present applicant, Ajay Kumar Pati would be considered when there would be vacancy in any Post Office in the vicinity. We are equally conscious of the fact that instruction given by the Director General, Posts & Telegraphs go to the extent of having Postmaster of the post village. While taking into consideration this instruction of the Director General, Posts & Telegraphs, one cannot also close his eyes to the instructions of Director General, Posts & Telegraphs contained in his letter No.43-4/77-Pen dated 23.2.1979, copy of which is annexed to the counter submitted on behalf of the respondents forming subject matter of Annexure-R-5. A portion of the same is quoted hereunder.

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" Surplus EDAs will therefore normally be interested in alternative employments only if it is offered near the place of their residence. Again, the EDBPMs/SPMs are required to reside in the post village; other categories of EDAs are required to reside near the place of their work or the stage from where mails are exchanged. In view of these restrictions a certain amount of flexibility in the appointment of these surplus EDAs is necessary. "

(Emphasis is ours)

The language and tone employed in this particular letter indicates that the Director General, Posts and Telegraphs also takes a sympathetic view over persons involved in ~~the~~ cases of this nature because of the past service rendered by them. In such circumstance, we feel that this is a fit case in which the matter should be reconsidered by the Superintendent of Post Offices, Balasore Division, in the light of the ~~given~~ instructions ^{given} by the Director General, Posts & Telegraphs and sympathetic attitude which he took in his memo endorsed to the applicant, Ajay Kumar Pati forming subject matter of Annexure-2. It also came to our notice the instructions of the Director General, Posts & Telegraphs contained in his letter No.43-84/80-Pen dated 30.1.1981 in which the Director General, Posts & Telegraphs stated that the Extra-departmental Branch Postmaster should be a permanent resident of the village where the Post office is located. He should be able to attend the Post office work as required of him. While stating all the instructions issued by the Director General, Posts & Telegraphs on this subject we would like to mention that Mr. P. K. Ray, learned counsel for the applicant on behalf of the applicant submitted before us that the applicant is willing to take his
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residence in post village, Aruhabad and pay the rent thereof so that Government would not be unnecessarily saddled with the costs towards rent of the house and it was further submitted on behalf of the applicant that the applicant will always remain in the said post village so that he would attend to the work in time which would not inconvenience the members of the public. It was further submitted by learned counsel, that the applicant would provide accommodation in the said house for running the post office. Taking into consideration, the sympathetic attitude conveyed in the letters of the Director General, Posts & Telegraphs, and in Annexure-2 and also taking into consideration the past experience of the applicant while discharging his duty as Extra-departmental Branch Postmaster, we wish that the Superintendent of Post Offices, Balasore Division would reconsider the case of the present applicant (Ajay Kumar Pati) and pass necessary orders in his favour. We trust and we hope that the case of the applicant would be disposed of by the Superintendent of Post Offices, Balasore Division within a couple of months from the date of receipt of a copy of this judgment. We hope the applicant will abide by the undertaking given (Stated above) within the stipulated period of two months.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.



B.R.PATEL, VICE-CHAIRMAN,

I agree.

Revised 16.9.87
..... 16.9.87
Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
September 16, 1987/S.Sarangi.

Revised 16.9.87
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Vice-Chairman