

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

ORIGINAL APPLICATION NO.192 of 1987.

Date of Decision : January 29, 1988.

Ananta Charan Nayak,
son of Sri Sudam Charan Nayak,
At, P.O. Mahumuhan, Dist- Balasore.
at present working as Extra-Departmental
Branch Postmaster, Mahumuhan Branch Post
Office, At, P.O. Mahumuhan,, District-
Balasore. ... Applicant.

Versus

1. Union of India,
represented by its Secretary,
Indian Posts, Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle,
At, P.O.Bhubaneswar-751001, Dist-Puri.
3. Sub-Divisional Inspector (Department
of Posts), Soro Sub-Division, Soro-756045,
Dist-Balasore.
4. Superintendent of Post Offices,
Balasore Division, Balasore-756001.
Dist.Balasore. ...

For the applicant : M/s.Devanand Misra,
Deepak Misra, &
R.N.Naik, Advocates.

For the respondents is Mr. A. B. Mishra, Senior Standing Counsel (Central).

C O R A M :

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

A N D

THE HON'BLE MR.K.P.ACHARYA, 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 ? ~~to~~
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 notification issued by the Superintendent of Post Offices, Balasore vide Annexure-4 is under challenge and sought to be quashed.

2. Shortly stated, the case of the applicant is that Respondent No.4, namely the Superintendent of Post Offices, Balasore Division issued a requisition to the Employment Exchange, Balasore to sponsor names of candidates for appointment to the post of Extra-departmental Branch Postmaster in Mahumuhan Extra-departmental Branch Post Office within the district of Balasore. On receipt of the recommendations of the Employment Exchange, Balasore Respondent No.4 in his letter dated 11.9.1985 intimated the applicant that his name had been sponsored by the Employment Exchange, Balasore as one of the candidates for appointment to the post of Extra-departmental Branch Postmaster of Mahumuhan Post Office and the applicant along with other candidates were directed to file regular applications in the prescribed proforma for appointment to the said post on or before 5.10.1985. All the candidates whose names had been recommended by the Employment Exchange, including the present applicant applied in the prescribed proforma and cases of all the applicants were considered and ultimately the applicant was directed to take charge of the Post Office and he took charge of the same on 23.6.1986. After the applicant worked as such for some time, having found that a fresh requisition has been issued to the District Employment Officer, Balasore for sponsoring names of candidates for the said post, the applicant being

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apprehensive that his services may be terminated, has come up before this Bench with a prayer to quash Annexure-4 which contains the advertisement inviting applications in the prescribed proforma for the post of Extra-departmental Branch Postmaster of Mahumuhan Post Office.

3. In their counter, the respondents maintained that the applicant, Ananta Charan Nayak was provisionally appointed though no formal order of appointment was issued in his favour. One Gadadhar Mohapatra who was not selected on the ground that he had managed to obtain an income certificate from the Tahasildar, Bhadrak yet on enquiry it was found that the said Gadadhar did not have any property in his own name and therefore in preference to Gadadhar the present applicant was provisionally appointed by the Superintendent of Post Offices, Balasore and when an allegation was levelled against the selection by the said Gadadhar Mohapatra, the Additional Postmaster General reviewed the case and having found certain irregularities to have been committed in the matter of selection of the applicant, his appointment was ordered to be cancelled and consequently a fresh advertisement has been made calling for applications. It is further maintained by the respondents that in view of the aforesaid facts and circumstances there is no merit in the petition which is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. A.B. Mishra, learned Senior Standing Counsel (Central) at some length. We have also perused the relevant documents and after giving our anxious consideration

to the arguments advanced at the Bar we do not feel inclined to interfere with the order passed by the Additional Postmaster General cancelling the appointment of the applicant especially because there is serious dispute as to whether Gadadhar had any properties in his own name or not. In such circumstances, we do not feel inclined to quash Annexure-4. But at the same time we would observe that both the applicant and Gadadhar would be at liberty to apply for the said post and it would remain completely within the discretion of the Superintendent of Post Offices, Balasore to select a suitable candidate whomsoever he finds fit and cancellation of the appointment of the present applicant by the Addl. Postmaster General and which orders are being upheld by us should in no circumstance weigh with the Superintendent of Post Offices, Balasore who is also free to make independent inquiry as to whether the applicants before him have properties standing in their own names or properties over which they have a co-parcenary right being a member of the joint family. We hope, the Superintendent of Post Offices, Balasore will also take into account the experience gained by the applicant, while making selection.

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

B.R.PATEL, VICE-CHAIRMAN,

9 agree.

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Member (Judicial)

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Vice-Chairman

Central Administrative Tribunal.
Cuttack Bench, Cuttack.
January 29, 1988/S. Sarangi.