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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION No. 232 OF 1987

Date of decision : August 22, 1988.

Manmathnath Jena, aged about 44 years,
son of late Dukhiram Jena, at present working
as Extra Departmental Packer-cum- Mail Peon,
S.C.S. College, Puri Post Office,
At, P.O. & District- Puri.

..... Applicant.

Versus

1. Union of India, represented by the Secretary,
Posts, Dak Bhavan, New Delhi 110 001.
2. The Postmaster General, Orissa, Bhubaneswar,
New Capital, Bhubaneswar, Dist- Puri.
3. Senior Superintendent of Post Offices,
Puri Division, Puri- 752 001, Dist- Puri.

..... Respondents.

M/s Devananda Misra,
Deepak Misra, R.N. Naik,
S.S. Hota & Anil Deo,
Advocates.

..... For Applicant.

Mr. A.B. Misra, Sr. 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. 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 ? NO
3. Whether Their Lordships wish to see the fair
copy of the judgment ? Yes .

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JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to be appointed to the post of a Postman lying at the disposal of the Superintendent of Post Offices, Puri.

2. Shortly stated, the case of the petitioner is that while he was working as Extra- Departmental Packer-cum-Mail Peon in the Samant Chandra Sekhar College Post Office, Puri, he had appeared at an examination for filling up the post of a Postman and this examination was held on 9.6.1985. Furthermore the case of the petitioner is that he is a member of the scheduled caste. On 17.9.1985 result of the examination was published and the petitioner did not qualify. In the said examination, no scheduled caste candidate qualified. On 23.9.1985 the concerned authority declared one Duryodhan Sahu, a general candidate to have also qualified in the examination. The petitioner asked for supply of the mark-sheet and it was supplied to the petitioner and it was found that the petitioner had secured 'zero' in Postman Book Entry paper. The petitioner made representation and the marks allotted to the petitioner in the said paper was further verified and found to be correct. On 14.9.1986, the results published on 17.9.1985 and 23.9.1985 were superseded and another result was published in which it was indicated that the petitioner had not qualified. On 2.4.1987 the petitioner was communicated the fact that he had secured 42 marks in the Postman Book Entry Paper. However, in respect of the post of a Postman reserved for the scheduled caste, one person bearing Roll No. PRI 31 was appointed. Mr. Deepak Misra, learned counsel for the applicant invited

our attention to para-4 of the counter wherein it is stated as follows :-

" Accordingly the re-tabulation of the marks were made . The applicant in the re-valuation secured 42 marks in Paper 8b8 and qualified. The selection for promotion is based on seniority-cum-merit. As per order No. ST/11-1/74 (corr) dt. 27.4.79 vide Annexure R-2, the applicant though secured pass mark in all the three papers, could not be declared as " qualified " as another S.C. candidate having Roll No. PRI 31 and senior to the applicant was qualified in the re-tabulation in all the three papers was available. As there was only one vacancy in SC cadre, the S.C. candidate bearing Roll No. PRI- 31 was declared qualified vide Memo No. B 12/15 dated 14.11.1986 vide Annexure-4 of the application . Thus, the applicant's case is misconceived and is liable to be rejected ".

While inviting our attention to this relevant paragraph of the counter, Mr. Deepak Misra submitted that in the meanwhile Roll No. bearing PRI-31 ~~is~~ to one Panchu Nayak and the said Panchu Nayak has been placed under suspension because he has been involved in a criminal case . Since there was no such evidence before us, an affidavit to the above effect has been filed by the petitioner before this Bench. It runs thus :

" That Panchu Nayak was working as Group 'D' employee at Nayagarh and was a scheduled

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caste candidate in the Postman examination held in the year 1985 and his Roll No. PRI-31 and that the said Panchu Nayak is under suspension as he is facing criminal trial ".

Relying on this affidavit, it was submitted by Mr. Deepak Misra that since Panchu Nayak is under suspension, it should be ordered that the petitioner be appointed to the post of Postman till finalisation of the criminal case pending against Panchu Nayak. We have also heard Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government at some length .

3. We would direct as follows :

In case the post of a Postman reserved for a scheduled caste is still vacant owing to the suspension of the said Panchu Nayak and if there is no other scheduled caste candidate senior and qualified than the petitioner, then the case of the petitioner should be considered for appointment to the post of Postman till the finalisation of the criminal case or revocation of the order of suspension in favour of Panchu Nayak which-ever is earlier.

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

B.R. Patel, 22-8-88
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN, I agree.

Central Administrative Tribunal,
Cuttack Bench.
August 22, 1988/Roy, Sr. P.A.

Vice Chairman.

B.R. Patel, 22-8-88
Vice Chairman.