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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO. 335 OF 1987.

Date of decision : December 16, 1987.

Bibhuti Bhusan Panda,
son of Sashibhusan Panda,
working as E.D.D.A. in Kahal
Post Office, under Kakatpur P.S.,
District-Puri.

Applicant.

Versus

1. Union of India, represented by the Postmaster General, Orissa Circle, At/P.O. Bhubaneswar, District-Puri.
2. Senior Superintendent of Post Offices, Bhubaneswar Division, At/P.O. Bhubaneswar, PIN- 751001.
3. Inspector of Post Office, Nimapara Sub-Division, At/P.O. Nimapara, District-Puri.

Respondents.

For the Applicant ... M/s. Dhuliram Patnaik & R.N. Naik, Advocates.

For the Respondents ... Mr. Ganeswar Rath, Additional 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 ?
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J) The grievance of the applicant in this application under section 19 of the Administrative Tribunals Act, 1985 is that he is being ousted from the post of Extra-departmental Delivery Agent of Kahal Post Office within the district of Puri and therefore, the prayer of the applicant is to command the respondents not to disturb the applicant from the said post.

2. Shortly stated, the case of the applicant is that he was provisionally appointed as Extra-departmental Delivery Agent, Kahal Post Office within the district of Puri since 11.11.1985 as a substitute for one Shri Narayan Rath whose services were terminated under Rule 6 of the P & T Extra-Departmental Agents (Conduct & Service) Rules, 1964. According to the applicant, the said Narayan Rath invoked the jurisdiction of the Hon'ble High Court of Orissa by filing an application under article 226 of the Constitution of India praying therein to quash the order of removal passed against him and this formed subject matter of Transferred Application No.81 of 1987. Further case of the applicant is that in compliance with the directions given by this Bench in its judgment passed in T.A.81 of 1987 on September 15, 1987, the respondents have advertised afresh to fill up the post in question and thereby the applicant is sought to be ousted. Hence, a prayer has been made before this Bench to injunct the respondents from making any fresh advertisement and it is further prayed that the applicant should be allowed to continue in the said post.

3. In their counter, the respondents maintained that the respondents had no other alternative but to make a fresh advertisement for the said post in view of the directions given

by this Bench in Transferred Application No.81 of 1987.

4. We have heard Mr.Dhuliram Patnaik, learned counsel appearing for the applicant and Mr.Ganeswar Rath, learned Addl. Standing Counsel(Central) at some length. It is pertinent to note that in Transferred Application No.81 of 1987 we have specifically directed the respondents in paragraph 6 of our judgment that the departmental authorities should, within two months from the date of receipt of a copy of this judgment, initiate the process to fill up the post by a regular appointment by making advertisement and calling for applications and thereafter adjudging the suitability of different candidates and applicants and a regular appointment should be issued in favour of the candidate who is found suitable. In view of the aforesaid nature of observations, we are in complete agreement with learned Addl. Standing Counsel(Central) that there was no other option left for the respondents but to call for applications by making fresh advertisement. In such circumstances, we do not find any merit in the contentions raised on behalf of learned counsel for the applicant which stand dismissed.

5. Before we part with this case, we cannot but observe that in T.A.81 of 1987 we have given liberty to the petitioner in the said case (Narayan Rath) to apply and stand the test so far as the present post is concerned. Mr.Patnaik submitted that similar facility should be given to the present applicant. We think this is a very reasonable request. We would direct, the case of the present applicant namely Bibhuti Bhushan Panda should also be considered(if he makes an application for appointment to the post) and his experience in the department

should also be considered as we have said in T.A.81 of 1987 that the case of Shri Narayan Rath should also be considered by the departmental authorities along with other applicants. It was told to us by learned counsel for the applicant that till regular appointment is made, the applicant should be allowed to continue in the said post. If this submission on instructions is correct, in all equity and fairness the applicant should be allowed to continue till a regular appointment in respect of the post is made.

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

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Member (Judicial)

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Vice-Chairman

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

