

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION NO. 54 OF 1987.

Date of decision ... January 19, 1988.

Purna Chandra Sethy, son of Sri Muliram Sethy,
E.D.Branch Post Master, Mukundapurpatna Branch Office,
Dist- Keonjhar. ... Applicant.

Versus

1. Union of India, represented through
the Postmaster General, At/P.O- Bhubaneswar,
Dist- Puri.
2. The Superintendent of PostOffices, Keonjhar Division,
P.O.Keonjhargarh, Dist- Keonjhar.
3. Director of Postal Services, Sambalpur Region,
Sambalpur.
4. Bankanidhi Giri,
At/P.O- Mukundapurpatna, Via- Ghategaon,
Dist- Keonjhar.

... Respondents.

M/s L.Mohapatra D.K.Mishra
and A.K.Mishra, 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 from local papers have been
permitted 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, appointment of Respondent No.4 as Extra- Departmental Branch Post Master, Mukundapurpatna within the district of Keonjhar is under challenge and sought to be struck down.

2. Shortly stated, the case of the applicant is that vide Annexure-1 dated 25.9.1985 the applicant was provisionally appointed as E.D.B.P.M., Mukundapurpatna within the district of Keonjhar for six months. The applicant worked as such from 25.9.1985 to 27.6.1986 though he has remained on leave giving a substitute from 27th June 1986 to 27th August 1986. In the meanwhile on 14th May 1986, a notification was published inviting applications for regular appointment to the said post and in response thereto the applicant along with some others including Respondent No.4 had submitted their applications praying therein for appointment to the said post. The competent Authority appointed Respondent No.4 for which the applicant feels aggrieved and this application has been filed with the aforesaid prayer. In addition to the said prayer, it is also prayed by the applicant that the arrear emolument to which he is legally entitled for the services rendered during the period stated above not having been paid to him, respondents should be

commanded to pay the arrear emolument without any further delay.

3. In their counter, the respondents maintained that the arrear emolument has already been paid and as regards prayer No.1, it is maintained on behalf of the respondents that the applicant not having furnished the income certificate which was incumbent on him to file the same before the competent authority along with his application, the application of the applicant was found to be defective and hence it was rightly rejected and thereafter Respondent No.4 having been found fit was appointed to the said post without any illegality having been committed and therefore, the appointment of Respondent No.4 should be sustained and the application being devoid of merit, it should be dismissed.

4. We have heard Mr. L. Mohapatra, learned counsel for the applicant and the learned Sr. Standing Counsel (Central) Mr. A.B. Misra, at some length. We have no dispute that the income certificate has to be filed by a particular person seeking employment as E.B.B.P.M. Non-filing of the income certificate at the initial stage would have certainly entitled the competent authority to reject the application as defective is but it ~~is~~ found from the records that the competent authority after receipt of the application of the applicant made further correspondence with the present applicant directing him to submit his income certificate. From the original letter addressed to the applicant by the Superintendent of Post Offices, Keonjhar Division

on 1.1.1986 bearing No.157/PF, it is evidently clear that the Superintendent directed the applicant to obtain the income certificate from the Revenue Authority and send the same to his office within fifteen days, otherwise the application will not be considered. In response thereto, the applicant sent the income certificate by registered post to the Superintendent of Post Offices, Keonjhar Division under registered letter No.686 dated 10.2.1986. The petitioner having performed his part of duty, we think he has complied with the directions given by the Superintendent of Post Offices. It is contended on behalf of the departmental authorities that the letter sent under registered cover 686 dated 10.2.1986 was not received in the Office of the Superintendent of Post Offices. The receipt issued by the Postmaster intoken of having received the registered letter for despatch having been filed before us and the genuineness of the said document being beyond any shadow of doubt, we cannot but presume that the letter was sent by the applicant in compliance with the directions of the Superintendent of Post Offices. We may repeat that the applicant having performed his part of the duty enjoined on him, fault does not lie with him if the correspondence contained in the registered letter No. 686 dt.10.2.1986 was not received in the office of the Superintendent of Post Offices. On this account we donot feel it justifiable to reject the application of the petitioner. To the credit of the applicant, he

has served the Department and gained some experience in regard to discharge of duty of an Extra- Departmental Branch Post Master. That apart in the notification calling for applications, it is stated that candidates belonging to scheduled caste and scheduled tribes would be preferred. It is stated on behalf of the applicant that he belongs to scheduled caste. Ofcourse we haveno opportunity to determine the truth of this statement but the name of the applicant is Purna Chandra Sethy. Taking all these aspects, we feel that rejection of the application of the applicant on this technical ground does not appear to be justifiable. We would therefore quash the order of appointment issued in favour of Respondent No.4 and we would direct that the Post Master General would give another chance to the applicant to file his income certificate and after receipt of the same, the applications of the applicant and Respondent No.4 be considered by the Post Master General and whom-so-ever he finds suitable- such person be appointed to the said post. We hope the Post Master General would also ascertain the correctness of the statement made by the applicant that he belongs to a scheduled caste. We have particularly requested the Post Master General to consider the application of the applicant and Respondent No.4 and pass orders according to law because we do not want that in future any further criticism would be levelled against the Department in regard to this particular appointment.

5. As a stop gap arrangement, we would permit Respondent No.4 to continue in the post of Extra-Departmental Branch Post Master till final orders are passed by the Post Master General and we hope within three months from the date of receipt of a copy of this judgment, the Post Master General would make it convenient to pass final orders.

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

Rao Chrys
.....
19.1.88
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN, 9 agree.

Banerjee
.....
19.1.88
Vice Chairman.



Central Administrative Tribunal,
Cuttack Bench.
January 19, 1988/Roy, SPA.