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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 55 of 1987.

Date of decision : May 5, 1988.

Chhabilal Gadatya, son of
Gokul Gadatya, Vill/P.O. Mayabarha,
Via-Bainsa, District-Bolangir.

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Applicant.

Versus

1. Union of India, represented
by the Postmaster General,
Orissa Circle, Bhubaneswar.
2. Director of Postal Services,
Sambalpur Region, At/P.O./
Dist. Sambalpur.
3. Superintendent of Post Offices,
Bolangir Division, At/P.O./
District-Bolangir. ...

Respondents.

For the applicant ... M/s. P.V. Ramdas, &
B.K. Panda, Advocates.

For the respondents ... 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 ? Yes.
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 order passed by the Director of Postal Services, Sambalpur cancelling the appointment order issued in favour of the present applicant vide Annexure-2 is under challenge.

2. Shortly stated, the case of the applicant is that the post of Extra-departmental Branch Post Master of Mayabarha Post Office within the district of Bolangir fell vacant. The concerned Employment Exchange was addressed to sponsor the names of candidates which was so done by the Employment Exchange and names of three persons were sponsored including that of the present applicant. The applicant having been found to be suitable than others, was appointed to the said post on 31.7.1985. Certain allegations were made by a third person which attracted the attention of the Director of Postal Services, Sambalpur and ultimately on the direction of the Director of Postal Services, the concerned Superintendent of Post Offices cancelled the appointment of the applicant vide order dated 28.1.1987 contained in Annexure-2. Hence, this application has been filed.

3. In their counter, the respondents maintained that no illegality has been committed in regard to the cancellation of the appointment of the applicant because according to Rules, filing of an income certificate by the appointee is an essential requirement. The applicant and others who were called upon by the selecting authority to file solvency certificate which was not contemplated under the Rules and the selecting authority having gone beyond the Rules, the Director of Postal Services

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rightly ordered cancellation of ~~the~~ appointment of the applicant.

4. We have heard Mr.P.V.Ramdas, learned counsel for the applicant and learned Senior Standing Counsel (Central), Mr.A.B.Mishra, at some length. The admitted case of the parties is that the applicant had been appointed to act as Extra-departmental Branch Postmaster, Mayabarha Post Office vide order dated 31.7.1985 on regular basis. Further admitted case of the parties is that the appointment order has been cancelled on the direction of the Director of Postal Services, Sambalpur. This Bench is now required to address itself on the legality of the order passed by the Director of Postal Services and also the order of termination passed by the Superintendent of Post Offices, Bolangir Division in compliance with the order of the Director of Postal Services. It was contended by learned Senior Standing Counsel (Central) that the selecting authority committed a grave mistake by calling upon the applicant and others to file solvency certificate whereas the Rules contemplate that Income certificate should have been filed. In order to repudiate this contention, Mr.P.V.Ramdas vehemently ^{submitted} placed before us that for the mistake committed by the selecting authority the applicant should not have been punished and to add to that Mr.Ramdas invited our attention to the provisions contained in Swamy's Compilation of Service Rules for Posts and Telegraphs Extra-Departmental Staff with the heading 'Exemption from property qualification' which runs thus :

" It has been decided that there is no need to fix any minimum limit of immovable property qualification. It will be enough if the Appointing Authority ensures that the BPM is solvent, of temperate habits, honest and trustworthy and for this, necessary

enquiries will have to be made in the locality through the departmental officials like Overseers and Inspectors who will also certify the above qualities of the persons proposed for the post of Branch Postmasters."

It is based on the direction issued by the Director General, Posts & Telegraphs in his letter No. 54-6/62-F, dated 9th August 1962. True, it is that the Rules contemplate for filing of income certificate. But the Director General being very well conscious of the Rules on the subject has issued this letter for the purpose of qualification equalising the word 'Solvency' with that of 'income' certificate. Therefore, there appears to be not much of difference between the two words. Be that as it may we are of firm opinion that for the mistake committed by a particular authority the applicant should not have been punished especially when the order passed by the Director of Postal Services is not a speaking order. In our opinion, this is a very important matter especially when the bread and butter given a person is being snatched away. Therefore, it was very much necessary on the part of the Director of Postal Services and the Superintendent of Post Offices, Bolangir to give reasoned orders while terminating the services of a particular employee. In case, the Director thought that the income certificate was essentially required, he could have noticed the present applicant to file an income certificate and he should have called upon concerned authority requiring him to inform the Director as to on what basis the solvency was determined. After receiving a report from the concerned authority, the Director could have up his mind and passed orders according to law giving reason for his conclusions. Hence, we find that the order passed by

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the Director of Postal Services, Sambalpur is ^a hasty one and violative of principles of natural justice.

5. In such circumstances, we do hereby quash the order cancelling the appointment of the applicant and we direct that the applicant should be reinstated with-in two months from the date of receipt of a copy of this judgment. He should not be entitled to any back wages. The competent authority is to call upon the applicant to file an income certificate and in case, the income certificate furnished by the applicant is not in compliance with the Rules, it would be open to the concerned authorities to take further action according to law.

6. Thus, this application stands allowed leaving the parties to bear their own costs.

Agreed
5/5/88
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

Patel
5.5.88
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench : Cuttack.
May 5, 1988/S. Sarangi.