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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION No. 75 OF 1987.

Date of decision .. January 6, 1988.

Niranjan Sahoo, son of Adikanda Sahoo,
At/P.O- Baghilibabanpur, Via- Chandol,
District- Cuttack. ... Applicant.

Versus

1. Union of India,
represented by its Secretary,
Indian Posts, Dak Bhavan,
New Delhi 110 001.
2. The Postmaster General, Orissa,
Town, Munsifi- Bhubaneswar, Dist- Puri.
3. Superintendent of Post Offices,
Cuttack North Division, Cuttack.
4. Sunamani Rout, son of late Duryodhan Rout.
village- Jalapoka, P.S. Patkura, Dist- Cuttack
at present of Baghilibabanpur, Via- Chandol,
District- Cuttack. ... Respondents.



M/s Devananda Misra,
Deepak Misra &
R.N.Naik, Advocates .. For Applicant.

Mr. Tahali Dalai, Addl.
Standing Counsel (Central) .. For Respondents 1 to 3

M/s Aswini Kumar Misra, S.B.Jena,
S.K.Das, Advocates .. For Respondent No.4

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 are
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, the applicant challenges the appointment order issued in favour of Respondent No.4 and seeks to quash the same.

2. Shortly stated, the case of the applicant is that in order to fill up the post of Extra Departmental Branch Post Master in Baghlobamanpur Branch Post Office, applications were called for from the intending candidates to fill up the said post and in response thereto the applicant, Respondent No.4 and some others were the applicants. After the cases of all the applicants were considered, the competent authority issued the order of appointment in favour of Respondent No.4 for which the applicant feels aggrieved and has filed this application with the aforesaid prayer.

3. In their counter, the respondents maintained that no illegality has been committed and no arbitrary order has been passed while appointing Respondent No.4. In such circumstances, the order of appointment issued in favour of Respondent No.4 should not be unsettled.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel for the Central Government and Mr. Aswini Kumar Misra, learned counsel appearing for Respondent No.4 at some length. Before we finally arrive at our own conclusions, it would be profitable to state



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succinctly the history of the case. Original Application No. 67 of 1986 was filed before this Bench by Respondent No.4 challenging the fact that his application for appointment to the said post was not considered which virtually amounts to violation of the principles of natural justice. It was maintained by Respondent No.4 in the said application that the application sent by Respondent No.4 was within time and the conclusions arrived at by the competent authority that the application was received beyond time has no legs to stand on. Incidentally, it may be mentioned that the present applicant was to be appointed as E.D.B.P.M. in the same Post Office and while the matter was thus pending, Original Application No. 67/86 was filed. The said case was heard on merits. We were convinced that the application sent by Respondent No.4 i.e., the applicant in the said case was within time and it should not have been rejected on the ground that it was received beyond time. Hence in the concluding paragraph of the judgment, we stated as follows :-

" Taking into consideration the aforesaid facts and circumstances, we find that the apprehension of the applicant that an arbitrary order has been passed in the present case cannot be completely turned down and therefore, appointment, if any, made to the above mentioned post hereby stands cancelled and after condoning the delay of one day in receipt of the application of the applicant, we would direct that the case of all the candidates for the said post including the present applicant be considered by the competent authority and after due consideration orders be passed according to Rules for

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appointment of one such candidate to the said Post who would be found suitable and efficient by the competent authority".

5. In view of the directions given by this Bench, the competent authority considered the case of all the candidates including the present applicant and Respondent No.4 and thereafter issued the order of appointment in favour of Respondent No.4. Mr. Deepak Misra, learned counsel for the applicant vehemently contended before us that Respondent No.4 does not belong to the post village and therefore his appointment is not according to rules and hence liable to be struck down. We are not inclined to accept the aforesaid contention of Mr. Deepak Misra because in our judgment passed in O.A. No. 67 of 1986, we have already stated that the case of Respondent No.4 should also be considered impliedly meaning that Respondent No.4 belongs to the post village. From the documents filed in this case we are also of opinion that Respondent No.4 belongs to the post village. In such circumstances, the aforesaid contention of Mr. Mishra is devoid of merit.

6. Before we part with this case, we must mention that it was submitted by Mr. Deepak Misra, learned counsel for the applicant that the applicant had been provisionally selected for the post of E.D.B.P.M. in Baghilobabanpur Branch Post Office and in ordinary course he should have taken charge of the said Post Office had not this Bench issued an interim order of stay. It was submitted by Mr. Deepak Misra that the Post Master General may kindly

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consider the case of the applicant on compassionate grounds and give him an appointment in the Post Offices in which there is vacancy and Mr. Mishra submitted that there are vacancies in Kendrapara, Chaduala, Balia (Bhagatpur), Gopaljewpatna, Janhimola, Fakirbad, Derbish, Enderhaladia and Nischintakoili Post Offices. We hope the Post Master General would take a sympathetic view in the matter and pass orders as deemed fit and proper in appointing the applicant in the category of E.D. Agents.

6. In view of the aforesaid facts and circumstances, we find no merit in the application which stands dismissed subject to the aforesaid observations leaving the parties to bear their own costs.



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Member (Judicial)

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

Anand
.....
Vice Chairman.

Central Administrative Tribunal,
Cuttack Bench
January 6, 1988/Roy, SPA.