

111 4 10

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO.100 of 1987

Date of decision : January 19, 1988.

Nityananda Mohanty,  
aged about 56 years, son of late  
Apariti Charan Mohanty, at present  
Deputy Superintendent of Post Offices,  
R.M.S. 'N' Division, At/P.O. & Dist. Cuttack.

...

Applicant.

Versus

1. Union of India represented by its Secretary,  
Indian Posts, Dak Bhavan, New Delhi.
2. Member (Personnel) Postal Services Board,  
Department of Posts, Dak-tar Bhavan,  
New Delhi.
3. The Postmaster General, Orissa Circle,  
At/P.O. Bhubaneswar-751001. Dist. Puri.

...

Respondents.

For the applicant .. M/s. Devanand Misra,  
Deepak Misra, R.N. Naik,  
S.S. Hota, Advocates.

For the Respondents ... Mr. Tahali Dalai, Addl. 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.
-

J U D G M E N T

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant challenges the order passed by the competent authority conveying the decision of the Departmental Promotion Committee holding the applicant to be unfit to cross the Efficiency Bar at the stage of Rs.1,000/- with effect from 2.5.1985.

2. Shortly stated, the case of the applicant is that while he was working as Superintendent of Post Offices, Aska Division he was entitled to cross the Efficiency Bar at the stage of Rs.1,000/- on 2.5.1985. The Departmental Promotion Committee could not be held prior to 2.5.1985 to consider the suitability of the applicant to cross the Efficiency Bar. The meeting of the D.P.C. was held on 1.8.1986 and on consideration of the records of the applicant, the D.P.C. opined that the applicant was unfit to cross the Efficiency Bar with effect from 2.5.1985. The D.P.C. came to such a conclusion because a severe warning was communicated to the applicant on 11.11.1985 resulting from an order passed by the Postmaster General, Orissa. In these circumstances, the applicant feels aggrieved for the denial accorded to him to cross the efficiency bar.

3. In their counter, the respondents maintained that the confidential character roll of the applicant could not be made available prior to 2.5.1985 as those had been sent to the higher authority for considering the case of the applicant for promotion and as soon as the C.C.Rs. were available the D.P.C. was convened which met on 1.8.1986 and due to the warning issued by the Postmaster General and communicated on 11.11.1985,

6  
12 ✓  
V

the D.P.C. rightly held the applicant to be unfit and the D.P.C. having come to such a conclusion the competent authority had no other option left but to deny the applicant entitling him to cross the efficiency bar. In addition to the above, it is also maintained by the respondents that in the year 1986 a disciplinary proceeding having been initiated against the applicant, his case for considering his suitability for crossing the efficiency bar in subsequent years have not been given effect to. In a nutshell, it is maintained by the respondents that there being no merit in this application, it is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) at some length. Mr. Deepak Misra invited our attention to Annexure-2 and contended that the adverse entry, if any to the extent that severe warning may be given to the applicant has resulted from the Postmaster General's order dated 11.11.1985 and proceeding having been initiated in the year 1986, such adverse reports should not have been taken into consideration by the Departmental Promotion Committee to adjudge the suitability of the applicant as on 2.5.1985 and if such matters are taken into consideration by the Departmental Promotion Committee, it would amount to extraneous consideration which is not permitted under law and especially the Judge-made-laws. We think there is considerable force in the contention of Mr. Deepak Misra that the grounds on which the Departmental Promotion Committee has held the applicant to be unfit relates to an occurrence long after the date

VI 7  
13

on which the applicant was due to cross the efficiency bar. In a number of cases we have also held earlier that subsequent events would amount to extraneous consideration. Therefore, in our opinion, the Departmental Promotion Committee was not justified in considering the report dt. 11.11.1985 while considering the suitability of the applicant with effect from 2.5.1985 and we hold that such consideration cannot but be illegal. We would further direct that the proceeding said to have been initiated against the applicant in the year 1986 cannot also be taken into consideration while considering the case of the applicant regarding the suitability to cross the efficiency bar with effect from 2.5.1985. In conclusion we would hold that the case of the applicant should be reconsidered by a special review departmental promotion committee to adjudge his suitability to cross the efficiency bar with effect from 2.5.1985 and we further direct that the records of the applicant and his performance as it stood on 2.5.1985 should only be taken into consideration and no other events subsequent thereto. We also further direct that a special review D.P.C. be convened within one month from the date of receipt of a copy of this judgment to consider the suitability of the applicant for the aforesaid purpose and the D.P.C. should keep in mind the guidelines stated above and we hope, final order should be passed within fifteen days from the date of final conclusion of the Departmental Promotion Committee.

5. Thus, this application stands accordingly

disposed of leaving the parties to bear their own costs.

.....  
Member (Judicial)

B. . . PATEL, VICE-CHAIRMAN,

.....  
Vice-Chairman



Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
January 19, 1988/S. Sarangi.