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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.158 of 1988.

Date of decision : February 28, 1989.

Biranchi Narayn Das, aged about 27 years,
son of Sri Surendra Nath Das, At/P.O.
Athantar, Via-Balipatna, District-Puri,
at present working as Branch Postmaster,
Athantar I.D.B.O., At/P.O. Athantar,
Via-Balipatna, District-Puri.

... Applicant.

Versus

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle, At/P.O. Bhubaneswar, Dist-Puri.
3. Senior Superintendent of Post Offices, Bhubaneswar Division, At/P.O. Bhubaneswar, District-Puri.
4. Basudeb Tanti, son of Baya Tanti, At/P.O. Athantar, District-Puri.

v.v.

Respondents.

For the applicant ... M/s. Deepak Misra,
Anil Deo, Advocates.

For the Respondents 1 to 3 : Mr. A. B. Mishra,
Sr. Standing Counsel (Central)
Mr. Tahali Dalai,
Addl. Standing Counsel (Central)

For the respondent No.4 : M/s. S. C. Roy,
R. Behera, Advocates.

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) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash Annexure-4 and furthermore to direct the respondents 1 to 3 to appoint the applicant as Extra-Departmental Branch Postmaster in Athantar Post Office.

2. Shortly stated, the case of the applicant is that at present he is working as Extra-Departmental Branch Postmaster of Athantar Post Office and he took charge of the said Post Office on 7.11.1986. On a complaint made by Respondent No.4 the appointment of the applicant stood cancelled and against that order the applicant came up before this Bench with an application under section 19 of the Administrative Tribunals Act, 1985 praying therein to quash the order of cancellation of appointment of the applicant which formed subject matter of Original Application No.138 of 1987. The said original application bearing No.138 of 1987 was disposed of by this Bench on December 1, 1987. In the said judgment we quashed the cancellation order passed against applicant and we directed that the case of the applicant and Respondent No.4 i.e. Basudeb Tanti be considered by the Postmaster General, Orissa Circle and suitability of either the applicant or Respondent No.4 be adjudged by the Postmaster General and after adjudication the Postmaster General in favour of the person who is found to be suitable would issue order of appointment. After receipt of our judgment the Postmaster General considered the candidature of both the applicant and Respondent No.4 and thereafter the Postmaster General issued order of appointment in favour of

the Respondent No.4. Being aggrieved by this order of appointment the applicant has again come up with an application under section 19 of the Administrative Tribunals Act, 1985, praying therein to quash the order of appointment issued in favour of Respondent No.4.

3. In their counter, the respondents maintained that the Postmaster General has considered the case of both the candidates from all aspects, in compliance with the direction contained in the judgment passed in Original Application No. 138 of 1987 and after the Postmaster General has exercised his discretion the Bench should not interfere with such discretion as there is no arbitrariness in the impugned order.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant, Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for the Respondents 1 to 3 and Mr. S. C. Roy, learned counsel for the Respondent No.4 at some length. We have also perused our judgment in O.A.138 of 1987 and other relevant records. Mr. Deepak Misra submitted before us that the directions given in the judgment have not been complied with by the Postmaster General. It was submitted by Mr. Deepak Misra that the direction of this Court was that the Postmaster General should consider the certificates given by the competent revenue authority not below the rank of Tahaslidar regarding the income of both the candidates and thereafter orders should be passed. Mr. Deepak Misra further submitted that the Postmaster General had no discretion to consider the

educational qualification of the applicant vis-a-vis the Respondent No.4. We find no merit in the aforesaid contention of Mr. Deepak Misra because from the tenor of the judgment we would find that we had left the matter completely to the discretion of the Postmaster General to consider the candidature of both the applicant and Respondent No.4 from all angles. We are satisfied that the Postmaster General has considered the matter from all angles and has arrived at a conclusion finding the Respondent No.4 to be more suitable than the applicant. We find that there is considerable force in the contention of Mr. Tahali Dalai, learned Additional Standing Counsel (Central) and Mr. S. C. Roy, learned counsel for the Respondent No.4 that discretion exercised by the Postmaster General should not be interfered with. There is no arbitrariness in the impugned order. Therefore, we do not feel it just and expedient to interfere in the matter and therefore, there being no merits in this case, stands dismissed leaving the parties to bear their own costs.

5. Before we part with this case, we would observe that the applicant has served the Department since 7.10.1986 - practically for about 2½ years. There is absolutely no adverse report against the applicant. We would therefore suggest to the Postmaster General to try to absorb the applicant in any other Post Offices in case any vacancy arises in future.

The stay order passed by this Bench on 23.5.1988

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stands automatically vacated.

h. s. s. 28/2/89.
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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

Amul 24.2.89.
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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
February 28, 1989/S. Sarangi.

