

11

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 166 of 1988

Date of decision :- April.18, 1990.

Lovaram Patel Applicant

Versus.

Union of India and others ... Respondents

For the Applicant - Mr. D.P.Dhalsamant
Advocate

For the Respondents - Mr. Tahali Dalai,
Addl.Standing Counsel(Central)

CORAM :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN
A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDL.)

1. Whether reporters of local papers may be allowed 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

N. SENGUPTA, MEMBER (J). This application concerns the appointment of Branch Post Master of Kanaktura Branch Post Office in the district of Sundargarh. The facts material for this application are only a few. Admittedly there was an advertisement calling for applications for selection of Branch Post Master of Kanaktura Branch Post office

Man Singh
18/4/90

and three persons appeared and they were called upon to file their solvency certificates. Amongst the three who were asked to file their solvency certificates, the applicant and the respondent No.6 were two. Respondent No.6 was officiating as E.D. B.P.M. of Kanaktura Branch Post office since prior to June 1986. In January, 1987 respondent No.6, the applicant and another were directed to appear before the Senior Superintendent of Post Offices Sundargarh Division with their original certificates for perusal of the said Superintendent. After that on 9.1.87 the Senior Superintendent of Post Offices, Sundargarh Division (Respondent No.5) issued a letter to the Subdivisional Inspector (Posts) South Division, Sundargarh to appoint the applicant as E.D.B.P.M. of Kanaktura Post Office. Another letter was issued to the respondent No.6 on 30.1.1987 directing him to make over charge of the Branch office to the applicant vide Annexure-A/7. The respondent No.6, it appears, had represented to the Postal authorities against the appointment of the applicant and requested for ^{his} continuance as E.D.B.P.M. The Superintendent of Post Offices, Sundargarh Division addressed a letter to the Postmaster General, Orissa in the matter and the Postmaster General advised that as the respondent No.6 had previous experience having officiated as E.D.B.P.M. and, belonged to Scheduled Tribe he was to be treated as a candidate of preferential category and the Postmaster General directed the respondent No.5 to re-examine the case. After that the respondent No.5 passed the order dated 25.8.87 (Annexure-8)

Man Singh
18/4

which is impugned in this application stating that the respondent No.6 was selected as a regular B.P.M. of Kanaktura Branch Post office.

2. The respondents in their counter have reiterated the stand that the respondent No.6 belongs to a preferential category, therefore the applicant cannot make a grievance against the appointment of the respondent No.6.

3. We have heard Mr. D.P.Dhalsamanta for the applicant and Mr. Tahali Dalai for the respondents. On a perusal of the annexures it would be manifest that an order of appointment had been issued to the applicant. It needs no thought to say that an appointment order creates a right. In order to take away that right, it is necessary that the affected person must be afforded an opportunity of being heard. In the instant case, no such opportunity appears to have been given to the applicant. Therefore, we are unable to sustain the order(Annexure-8) and accordingly the order dated 25.8.87(Annexure-8) is quashed. The respondent No.5 should pass appropriate orders after giving an opportunity of hearing to the parties concerned and re-examining the case.

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

.....
Vice-Chairman.



.....
Member (Judicial)