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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application Nos. 190 & 212 of 1988.

Date of decision : August 18, 1988.

O.A. 190/88

Shri Dibakar Rath, son of late Bidyadhar Rath ,
Village/ P.O- Sagar, P.S. Narasinghpur, Dist- Cuttack.

... Applicant.

Versus

1. Superintendent of Post Offices, South Division,
Cuttack.

2. Sub-Divisional Inspector (Postal), Athgarh,
P.O. Athgarh, Dist- Cuttack.

... Respondents.

3. Sri Krupasindhu Jena, son of Dinabandhu Jena,
At/P.O- Sagar, Via- Kanpur, Dist- Cuttack.

... Intervenor.

M/s A.K. Nayak &
S.N. Patra, Advocates

... For Applicant.

Mr. A.B. Misra, Sr. Standing
Counsel (Central)

... For Respondents 1 & 2

M/s Deepak Misra & A. Deo,
Advocates

... For Intervenor.

O.A. No. 212/88 :

Sri Dillip Kumar Roul, son of Ram Chandra Raul,
Village / P.O- Sagar, P.S. Narasinghpur,
Dist- Cuttack

... Applicant.

Versus

Union of India, represented by

1. Superintendent of Post Offices,
South Division, Cuttack.

2. Sub-Divisional Inspector (Postal),

Athgarh Sub-Division, Athgarh,

Dist- Cuttack.

3. Sri Krupasindhu Jena,

son of Dinabandhu Jena,

At/P.O- Sagar, P.S. Narasinghpur,

District- Cuttack.

...

Respondents.

M/s A.K.Nayak & S.N.Patra,

Advocates

...

For Applicant.

Mr. A.B.Misra, Sr. Standing

Counsel (Central)

...

For Respondents 1 & 2

Mr. Sarat Kumar Mohanty (1),

Advocate

...

For Respondent No.3.

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 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), This common judgment would govern both the cases mentioned above as the dispute centres around the appointment to the post of Extra- Departmental Branch Post Master of Sagar Branch Post Office (Narasinghpur) within the district of Cuttack .

2. In Original Application No. 190 of 1988, the petitioner Dibakar Rath was provisionally appointed to act as Branch Post Master of Sagar Post Office from 30.4.1988 A.N. to 30.6.1988, vide Annexure- 3 dated 17.6.1988 by the Superintendent of Post Offices, South Division, Cuttack. The concerned Employment Exchange after being requested by the appropriate authority sponsored the names of three persons, vide Annexure-R/7, namely Dilip Kumar Roul, Prasanna Kumar Barik and Krupasindhu Jena. The cases of all the three candidates were considered and the appropriate authority selected Krupasindhu Jena- respondent. Being aggrieved by this order of appointment the petitioner Dibakar Rath has come up before this Bench with a specific limited prayer to quash Annexure-3 and also to consider Annexure-2 , his case for promotion.

3. In their counter, the Opposite Parties maintained that the selection of Krupasindhu Jena is according to the rules and the name of the petitioner not having been sponsored by the Employment Exchange, the appropriate authority rightly selected Krupasindhu Jena

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out of the candidates whose names have been sponsored by the Employment Exchange.

In O.A.No. 212 of 1988 the name of the petitioner Dilip Kumar Roul was sponsored by the Employment Exchange and the appropriate authority not having appointed him, the present application under section 19 of the Act has been filed with a prayer to quash Annexure-3 which contains the order of the Sub-Divisional Inspector (Postal) Athgarh Sub-Division stating to Dibakar Rath that Dilip Kumar Roul (the present petitioner) who was acting as a substitute of Dibakar Rath provided by him is found to have been involved in a G.R. Case and therefore another substitute should be provided in place of Dilip Kumar Roul. The next prayer of the petitioner Dilip Kumar Roul is to re-consider his name for the post of Extra - Departmental Branch Post Master, Sagar Post Office and appointment of Respondent No.4 i.e, Krupasindhu Jena to be declared illegal and void .

In their counter filed in Original Application No. 190 of 1988 , the Opposite Parties maintained that name of Dibakar Rath not having been sponsored by the Employment Exchange, there was no scope left for the appropriate authority to consider the case of Dibakar Rath. His appointment being for a specified period came to an automatic cessation by virtue of the lapse of the period stipulated in Annexure-3.

In O.A.No. 212 of 1988 it is maintained on behalf of the respondents that as a criminal case

is pending against the petitioner Dilip Kumar Roul in the court of the Judicial Magistrate, Narasinghpur involving moral torpitude he was not rightly selected and therefore there being no merit in the case it is liable to be dismissed.

4. In both the cases we have heard Mr. A.K. Nayak, learned counsel for the petitioners Dibakar Rath and Dilip Kumar Roul and we have also heard Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government and Mr. Deepak Misra and Mr. S.K. Mohanty (1), learned counsel appearing for Krupasindhu Jena in each of the cases. So far as O.A. No. 190 of 1988 is concerned admittedly name of the petitioner was not sponsored by the Employment Exchange and therefore we feel that there is considerable force in the contention of the learned Sr. Standing Counsel that there was no scope for the appropriate authority to consider the case of the petitioner Dibakar Rath and therefore his case was not rightly considered. Mr. A.K. Nayak could not give us a convincing reply to negative the aforesaid contention of the learned Sr. Standing Counsel. Nowhere in the petition it is mentioned that Dibakar Rath had registered his name in the Employment Exchange. From Annexure-A to the counter filed on behalf of Krupasindhu Jena in O.A. No. 212 of 1988 we would find that the Sarpanch of Sagar Gram Panchayat has addressed a letter to the Superintendent of Post Offices stating that the petitioner Dibakar Rath is also acting as the Secretary of Gram Panchayat. We have grave doubt whether he could perform the dual functions, one as the Secretary of the Gram Panchayat and the other as E.D.B.P.M., Sagar Branch Post Office. In such

circumstances we find no merit in this case .

5. Next coming to Original Application No. 212 of 1988, we find from records that the petitioner Dillip Kumar Roul was not selected because a criminal case is pending against him in the court of the Judicial Magistrate, Narasinghpur, vide Annexure- R/12 and this fact has not been controverted by the petitioner Dilip Kumar Roul. In such circumstances, we think rightly the candidature of the petitioner Dillip Kumar Roul was rejected. Hence we find no merit in this case .

In view of the findings arrived by us in both the cases, there is no escape from the conclusion to hold that both the cases are devoid of merit andhence both the cases are dismissed leaving the parties to bear their own costs. The stay order passed by this Bench automatically stands vacated.

6. Before we part with these two cases, we may mention that copy of the First Information Report in Narasinghpur P.S. Case No. 36 dated 17.7.1988 was filed before us by the learned counsel for the petitioner Mr. A.K. Nayak indicating that a criminal case under section 341/323/34 IPC has been registered against Krupasindhu Jena who has been selected and appointed to the said post. It was contended that if Dillip Kumar Roul was not appointed owing to pendency of a criminal case, the same treatment should be given to Krupasindhu Jena. we do not propose to pass any orders on this matter because it is for the first time that such a contention was advanced before us
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and no opportunity was given to the officers for the Postal Department to have their say in the matter. Therefore, we would keep this matter open and leave it to the Superintendent of Post Offices, South Division, Cuttack to consider this and pass appropriate orders according to law. A copy of this judgment be specially sent to the Superintendent of Post Offices, South Division, Cuttack for his information and necessary action.

Agreed
..... 18/8/88

Member (Judicial)

B.R. PATEL, VICE CHAIRMAN,

I agree.

Prashad 18.8.88
.....
Vice Chairman.



Central Administrative Tribunal,
Cuttack Bench.
August 18, 1988/Roy, Sr.P.A.