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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 252 of 1988

Date of decision : August 12, 1988.

Sri Kishore Kumar Samantaray, son of Sri Banambar Samantray,
Jeep Driver, Office of the Senior Superintendent of Post
Offices, Puri Division, Puri

..... Applicant.

Versus

1. Union of India, represented through the Post Master
General, Orissa Circle, Bhubaneswar.
2. Senior Superintendent of Post Offices, Puri Division, Puri
3. Respondents.

M/s Satyabrata Rath &

D. K. Chhotaray, Advocates ... For Applicant.

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

... For Respondents.

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

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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 His Lordship wishes to see the fair
copy of the judgment ? Yes .
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J U D G M E N T

B.R. PATEL, VICE CHAIRMAN, Briefly stated the facts are that the applicant was a casual driver working under the Senior Superintendent of Post Offices, Puri Division (Respondent No.2). On 30.3.1988 the regular departmental driver was promoted and the post of driver fell vacant. Respondent No.2 wrote to the Employment Exchange to sponsor some candidates for appointment as a driver. The applicant was also registered with the Employment Exchange but the Employment Exchange did not send his name to Respondent No.2. Respondent No.2 fixed up 5.8.1988 for interview of the candidates sponsored by the Employment Exchange. The result is not yet out. The applicant has prayed that Annexure-4 should be declared as illegal and un-constitutional and direct the Respondent No.2 not to publish or act on the result of the interview held on 5.8.1988 and finally to direct Respondent No.2 to hold a fresh interview taking the application of the applicant, vide Annexure-5 along with others.

2. No counter need be filed as the facts are very simple and undisputed . Mr. A.B.Misra, learned Senior Standing Counsel for the Central Government averred that the Department could not consider the case of the applicant because his name was not sponsored by the Employment Exchange.

3. I have heard Mr. S.Rath, learned counsel for the applicant and Mr. A.B.Misra, learned Sr. Standing Counsel for the Central Government at some length. Mr. Rath however contends that the Employment Exchange could have sent the name of the applicant because the applicant

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has got himself registered with the Employment Exchange had there been any requisition from the departmental authority i.e, Respondent No.2. Mr. Rath further averred that as the applicant worked off and on as a casual driver when the regular driver was absent he has got adequate experience and ordinarily the Employment Exchange should not have declined to sponsor his name.

4. The issue involved is very simple in that the prayer of the applicant is that his case should be considered along with the cases of other applicants for the post of driver under Respondent No.2. Respondent No.2 was not in a position to interview the applicant on 5.8.1988 as admittedly the applicant's name was not sponsored by the Employment Exchange. Admittedly the applicant was working as a casual driver in the absence of the regular departmental driver. This is corroborated by the orders issued by Respondent No.2, copies of which have been placed at Annexure- 3 series . That he has experience of driving the departmental vehicle is not denied. I do appreciate the difficulty of the departmental authority in not considering the case of the applicant. At the same time I do appreciate that the applicant has a case for being considered for appointment in the vacancy caused by the promotion of the departmental driver in view of his past service as a casual driver. Ends of justice will be met if his case is considered. It is , therefore, directed that Respondent No.2 should write to the Employment Exchange within a week from the date of receipt of a copy of this judgment and the Employment

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Exchange should send the name of the applicant within a fort-night . Thereafter Respondent No.2 would consider the case of the applicant along with other applicants for the post of Driver within six weeks . Pending consideration of the case of the applicant for interview, the result of the interview held on 5.8.1988 should not be published, if not already published. Even if the result has been published, all the cases including ^{that of} the applicant should be considered again.

5. Thus, the application is disposed of leaving the parties to bear their own costs .



[Signature] 12.8.88
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Vice Chairman.

Central Administrative Tribunal,
Cuttack Bench.
August 12, 1988/Roy, Sr.P.A.

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Miscellaneous Appeal No.68 of 1989
(Arising out of O.A.252 of 1988)

Date of decision 14th March, 1989

1. Sri Kishore Kumar Samantaray,
S/o Sri Banambar Samantaray,
Jeep Driver, Office of the Senior
Superintendent of Post Office,
Puri Division, Puri. Applicant

-Versus-

1. Union of India, represented through
the Post Master General, Orissa Circle,
Bhubaneswar.
2. Senior Superintendent of Post Offices,
Puri Division, Puri.
..... Respondents

For the Applicant M/s. Satyabrata Rath
& D.K. Chhotaray, Advocates

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

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN
AND
THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed
to see the judgement ? Yes
2. To be referred to the Reporters or not ? No
3. Whether Their Lordships wish to see the fair
copy of the Judgement ? Yes
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:- J U D G M E N T :-

K.P.A.C. MEMBER (J)

This application arises out of O.A.No.252 of 1988 in which judgement was delivered on 12th August, 1988. There in it was stated that the case of the petitioner K.K.Samantray be considered for regular appointment by the Competent Authority. The judgement having not been implemented as yet., the petitioner K.K.Samantary has come up with this application with a prayer to direct O.P.No.1 & 2 (In O.A.No.252 of 1988) to consider the case of the petitioner and thereby implement the judgement.

2. We have heard learned Counsel for the petitioner and Mr.A.B.Misra, learned Senior Standing Counsel (Central) Mr.Misra submitted that the Department has no objection to consider the case of the petitioner but the department is handicapped due to the fact that the Employment Exchange does not sponsor the name of the petitioner because he is age barred. We find that the petitioner has served the department on casual basis since 1982. We have also perused the letter of the Employment Exchange contained in Annexure R-2 where in it is stated that the petitioner has become age barred. We would direct that rules governing the subject regarding the casual worker to be absorbed on regular basis in the category of ~~xx~~ driver are to be taken into consideration by the Senior Superintendent of Post Office, Puri for regularisation of the service of the petitioner if found suitable as he was within the age limit on the date he was appointed on casual basis. We would also say that if necessary the competent authority should be moved for relaxation of the age of the petitioner.

3. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

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Member(Judicial)

B.R.PATEL, VICE-CHAIRMAN

I agree.



Central Administrative Tribunal
Cuttack Bench, Cuttack
14th March, 1989/Mohapatra

[Signature]
14.3.89
.....
Vice-Chairman