

VIII
16

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.28 OF 1988

Date of decision .. November 21, 1988

Jiten Kumar Giri,
aged about 28 years,
son of Jagannath Giri,
at present working as Extra-
Departmental Stamp Vendor,
Arunodaya Market, Cuttack,
District-Cuttack.

... Applicant

Versus

1. Union of India
represented by its Secretary,
in the Department of Posts,
Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle,
Town, P.O. Bhubaneswar, Dist- Puri.
3. Senior Superintendent of Post Offices,
Cuttack City Division, P.O & Dist-
Cuttack.

... Respondents

M/s Devananda Misra,
Deepak Misra, R.N Naik,
S.S Hota, R.N Hota & A.Deo
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

AND

THE HON'BLE MR K.P ACHARYA, MEMBER (JUDICIAL)

....

1. Whether reporters of local papers have been permitted 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

17

K.P ACHARYA, MEMBER (JUDICIAL), In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the order passed by the competent authority cancelling the examination held in the year 1987 for the vacancies occurring in the year 1986.

2. Shortly stated, the case of the applicant is that he is an extradepartmental Stamp vendor appointed in the year 1983 and has been working as such in the Arunodaya Market Sub-Office at Cuttack. A vacancy arose for the post of Postman which is a promotional post for the Extra-departmental employees including the Extradepartmental Stamp vendors. The applicant is said to have appeared in the examination which was held in the year 1987 and subsequently the competent authority cancelled the examination and directed that a fresh examination be held for the purpose and accordingly another examination was held on 31.1.1988. The applicant seeks to challenge the order relating to the second examination and has filed this application with the aforesaid prayer.

3. In their counter, the respondents maintain that the cancellation of the examination was on administrative grounds because certain anomalies had crept into the first examination and therefore, rightly the competent authority ordered a fresh examination. Such order should not be disturbed.

EN,

4. We have heard Mr Deepak Misra, learned counsel for the applicant and learned Senior Standing Counsel (Central), Mr A.B Misra at some length. It was contended on behalf of the applicant that cancellation of the first examination is illegal and the applicant being an orthopaedically handicapped person, he is to be governed according to the instructions contained in Office Memorandum No.39016/24/80-Estt.(C) dated 1.12.1980 read with Government of India, Ministry of Personnel and Training, Admn.Reforms and Public Grievances & Pension Office Memorandum No.14016(3)/85-Estt(D) dated 4.9.1985 and Postmaster General's letter No.RE/30-22/87 dated 10.8.1988. After hearing learned counsel we are convinced that the cancellation of the examination was justified and we also find that the applicant has appeared in the second examination which was held on 31.1.1988 and the results thereof have been published on 1.8.1988. In paragraph 3 of the counter it is stated that the applicant is a physically handicapped person due to chronic osteomyritis and deformity in the right leg etc. Therefore, we leave it to the competent authority to dispose of the contention put forward on behalf of the applicant according to law keeping in view the instructions contained in the aforesaid Office Memorandum. We would have passed necessary orders but the Office Memorandum was not produced before us by either side and therefore we leave this

41

matter to the competent authority to consider the case of the applicant keeping in view the aforesaid Office Memorandum.

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

Lalit M.P.
.....
21. XI. 88
Member (Judicial)

B.R PATEL, VICE-CHAIRMAN

9 agree.

B.R Patel
.....
21. 11. 88
Vice-Chairman



Central Administrative Tribunal,
Cuttack Bench, Cuttack
November 21, 1988/Sarangi.