

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.301 of 1988.

Date of decision : January 3, 1989.

Bishnu Prasad Mohapatra, aged about 23 years,
son of Gopinath Mohapatra, At/P.O. Alasana,
Via -Chandanpur, District-Puri.

... Applicant.

Versus

1. Union of India, represented by its Secretary, in the Department of Posts, Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle, At/P.O. Bhubaneswar, Dist-Puri.
3. Senior Superintendent of Post Offices, Puri Division, At, P.O. & Dist. Puri.
4. Kishore Mohapatra, Care of Purnachandra Mohapatra, At/P.O. Alasana, Via-Chandanpur, Dist-Puri.

... Respondents.

For the applicant ... Mr. Deepak Misra, Advocate.

For the respondents ... Mr. A. B. Mishra, Sr. Standing Counsel (Central)

CORAM :

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 ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

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JUDGMENT

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the selection of Respondent No.4 appointing him to act as the Extra-departmental Branch Postmaster, Alasana Post Office within the district of Puri.

2. Shortly stated, the case of the applicant is that the post of Extra-departmental Branch Postmaster of Alasana Post Office fell vacant and the competent authority requested the Employment Exchange, Puri to sponsor certain names. In its turn the Employment Exchange sponsored the names of four candidates including the present applicant and Respondent No.4. The prescribed application forms were sent to different candidates for being filled up and sent for consideration of their cases for appointment to the said post office. The grievance of the applicant is that though his application was received in the Office of the competent authority within the stipulated time, but the application of Respondent No.4 was received much beyond the stipulated period and despite the delay committed by Respondent No.4 in sending the application to the competent authority, for no rhyme or reason the competent authority has selected Respondent No.4 for the said post and the order of appointment in the process ^{of} ~~is~~ being issued. In such circumstances, it is prayed by the applicant to quash the selection of Respondent No.4 and command the respondents to appoint the applicant in place of Respondent No.4.

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3. In their counter, the respondents maintained that a genuine mistake was committed by the Office in not sending the prescribed form to Respondent No.4 within time and after this mistake was detected the application form was sent to Respondent No.4 and eventually it was received late i.e. beyond the stipulated period and time was extended till 21.7.1988, within which period the application was received. It is further maintained by the respondents that in such circumstances, the application of the applicant is devoid of merit and is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and learned Senior Standing Counsel (Central), Mr. A. B. Mishra at some length. The admitted position before us is that the application of Respondent No.4 was not received within the stipulated period and particularly in his case the last date for receiving the application was extended till 21.7.1988 and cases of all the candidates were considered and Respondent No.4 was adjudged to be the suitable person by the competent authority and therefore, Respondent No.4 was rightly selected and hence this Bench should not interfere. After hearing learned counsel for both sides we are of opinion, that extension of the last date for receiving application only in the case of Respondent No.4 cannot be held to be equitable in the eyes of law. In case, the last date for receipt of the application was to be extended, then it should have been extended for all concerned inviting any other further applications from any/intending candidates. Such

procedure not having been followed, we do not feel inclined to hold the order passed by the competent authority selecting Respondent No.4. We would therefore, quash the selection of Respondent No.4 and direct that cases of all the candidates who had applied including the applicant and Respondent No.4 be considered afresh and any person found to be suitable be selected by the competent authority.

5. Before we part with this case we must observe that our order quashing the selection of Respondent No.4 should not weigh with the competent authority in any manner whatsoever. He is free to arrive at his own independent conclusion while adjudicating the suitability of different candidates. In our order dated 21.9.1988 it has been stated that Respondent No.4 should be informed that his appointment and functioning as Extra-departmental Branch Postmaster of Alasana Post Office is subject to the result of this application. In case, Respondent No.4 has already taken over charge of the Post Office and is continuing as Extra-departmental Branch Postmaster, he should be allowed to continue till final orders are passed by the competent authority selecting a person. We hope, the competent authority would pass necessary orders within two months from the date of receipt of a copy of this judgment.

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

K. S. Sarangi
..... 3.1.89
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN, *I agree.*

Central Admn. Tribunal,
Cuttack Bench: Cuttack.
January 3, 1989/S. Sarangi.

R. Patel
..... 3.1.89
Vice-Chairman