

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH;CUTTACK.

Original Application No.354 of 1988

Date of decision:15th December,1989.

1. Smt.Jyotsnarani Panda, aged about 21 years,
W/o Sarat Kumar Panda, Vill/P.O.Champeswar
Munsif-Narasinghpur, P.S.Kanpur, Dist.Cuttack.

.... APPLICANT

-Versus-

1. Union of India, represented through
it's Secretary, Posts, Dak Bhawan,
New Delhi-110001.
2. The Superintendent of Post Offices,
Cuttack South Division, Cuttack.
3. Smt.Srutikirti Rath,
W/o Rabindra Kumar Rath,
Vill/P.O.Champeswar, P.S.Kanpur
Munsif-Narasinghpur, Dist.Cuttack.

..... RESPONDENTS

For the Applicant M/s.S.Kr.Mohanty &
S.P.Mohanty, Advocates

For the Respondents. Mr.Ganeswar Rath (Respondent Nos.1 &
2) & Sri B.M.Patnaik (R-3).

C O R A M:

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN
A N D
THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

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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 E M E N T :-

N. SENGUPTA, MEMBER (JUDICIAL) The applicant in this Original Application under section 19 of the Administrative Tribunal's Act, challenges the appointment of Respondent No.3 as E.D.B.P.M. of Champeswar Branch Post Office in the district of Cuttack.

2. Some of the facts are un-disputed namely, the Employment Exchange was requested on 24.10.88 to sponsor names for appointment to the post of Extra Departmental Branch Post Master Champeswar. The concerned Employment Exchange sponsored the names of 19 persons. It is further un-disputed that only 4 of them really applied for appointment and ultimately only 2 namely, the present applicant and Respondent No.3, submitted their documents for consideration by the Appointing Authorities. It is alleged that the 3rd Respondent obtained income certificate from the Tahasildar which was in-correct and for that she (applicant) agitated the matter before the S.D.O. Athagarh and S.D.O. directed the Tahasildar to make a fresh enquiry into the income of Respondent No.3. After the remand by the S.D.O., Respondent No.3 did not appear before the Tahasildar for that the case was dismissed for default. Thus it is a case of the applicant that the Postal Authorities has appointed the Respondent No.3 without any valid certificate about her income. Her case further is that she is better qualified and more solvent than Respondent No.3, therefore, she was entitled to get the appointment in preference to Respondent No.3.

3. Shortly stated the grounds urged in the Counter filed are that the Postal Authorities took into account

solevency of the applicant as well as ^{of} Respondent No.3 and examined the ~~Relevant~~ documents where-after they issued appointment order to Respondent No.3 after giving due consideration to all materials made available to them and after an enquiry.

3. We have heard Sri S.P.Mohanty, learned Counsel for the applicant and Sri Ganeswar Rath, for Respondent Nos.1 and 2 and Sri B.M.Patnaik for Respondent No.3. Sri Mohanty has very strenuously urged that since the S.D.O.remanded the matter in appeal to the Tahasildar for fresh disposal and as Respondent No.3 did not take care to appear before the Tahasildar, it has to be found that Respondent No.3 had no certificate in support of the income alleged by her. What the rules provide is not about the income of a particular person but about her solevency. It is submitted by Mr.Mohanty that the applicant was more solevant than Respondent No.3 therefore she deserved a preferential treatement.We are unable to accept such a contention because that would amount to accepting only the rich for appointment,a proposition which can never be accepted.From the order of S.D.O.,his jurisdiction to entertain the appeal against the income certificate though doubtful,it would be found that Respondent 3 ~~she~~ owned 94 decimals of land in the district of Cuttack besides having income from other sources. The Tribunal can not refuse to take judicial notice of the fact that in the mean time there has been a high rise in the price of land and transactions in Branch Post offices are not that high as in any Sub-office or Head Office. It is for the Department to satisfy it self about the solevency of the person and it is not for the Court or Tribunal to

substitute its own decision about the solvency or otherwise. In the Counter it is clearly mentioned that the Department was satisfied initially and again by further enquiry after receipt of complaint from the applicant about the solvency of Respondent No.3. Therefore, this ground urged by Mr. Mohanty cannot be accepted.

4. The rules prescribe that the qualification for the post of E.D.B.P.M. is class VIII but however, it has been mentioned that Matriculates are to be preferred. Basing on this, Sri Mohanty, urges that according to that rule the applicant being more qualified than Respondent No.3, she should have been given preference. We are unable to accept the contention of Mr. Mohanty because had it been the intention of the Rule that a person having better academic qualification is to be preferred, it would have been specifically so mentioned. Since the 3 grounds urged by Sri Mohanty are not tenable and as no unfairness on the part of the Selecting Authority has been shown and Respondent No.3 was found fit, the applicant ^{is not} ~~was~~ entitled to get the ~~appointment~~ ^{relief prayed for}.

5. This application is accordingly dismissed, leaving the ^{parties} ~~Respondents~~ to bear their costs.

B.R. PATEL, VICE-CHAIRMAN

I agree



[Signature]
Member (Judicial) 15/12/89

[Signature]
Vice-Chairman 15-12-89

Central Administrative Tribunal
Cuttack Bench, Cuttack
15th December, 1989/Mohapatra