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CENTRAL ADMINISTRATIVE TRIBUNAL.
CUTTACK BENCH : CUTTACK.

Original Application No.444 of 1988.

Date of decision : February 8, 1989.

Shri Biranchi Narayan Sahoo, aged about 25 years,
son of Arjuna Sahoo, At & P.O.Badasahar, Via-
Bhapur, Dist-Puri, Ex-Branch Post Master,
Badasahar, P.O., Dist.Puri.

...

Applicant.

Versus

1. Union of India, represented by the Secretary, 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, Puri, P.O.Town & Dist-Puri.
4. Shri R.K.Sethi, Overseer Mails, At present functioning as Post Master, Badasahara P.O.Via-Bhapur, Dist-Puri.

... Respondents.

For the applicant ... M/s.Deepak Misra,
A.Deo, Advocates.

For the respondents ... Mr.A.B.Mishra,
Senior Standing Counsel (Central)
Mr.Tahali Dalai, Addl.S.C.(Central)

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 allowed 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 ?

JUDGMENT

K.P. ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant challenges the order passed by the Senior Superintendent of Post Offices, Puri Division contained in Annexure-4 rejecting the solvency certificate filed by the applicant as not acceptable.

2. Shorn of details, the case of the applicant is that he was appointed as an Extra-Departmental Branch Post-Master of Badasahara Branch Post Office within the district of Puri on 29.12.1984. The applicant was asked to submit the Solvency certificate and in response thereto the applicant submitted a sale deed from which it was indicative that he was solvent to the extent of Rs.5000/-. The authorities not having been satisfied with the sale deed and solvency certificate not having been filed the authority concerned removed the applicant from service on 9.8.87. Being aggrieved by the order of removal, the applicant came up before this Bench with a prayer to quash the order of removal and it formed subject matter of O.A.252 of 1987. The Judgement in O.A.252 of 1987 was pronounced and delivered on 6.9.1988. Therein we observed as follows:

" Mr.Naik has filed the Xerox copy of the solvency certificate granted by the competent Revenue authority. We are told that as yet the post in question has not been filled up because we had passed an order of stay. In view of the peculiar facts and circumstances of the case, we would direct that the Petitioner should appear before the Senior Superintendent of Post Offices, Puri Division, Puri and file the original of the solvency certificate (xerox copy of which has been filed in court today) within fifteen days from today and after verification of the certificate

in question which should be completed within two months from the appearance of the petitioner and filing of the certificate and within one month therefrom the petitioner should be reinstated into service if the certificate is accepted. "

In compliance with the directions contained above, the applicant filed the original of the solvency certificate and solicited orders from the Senior Superintendent of Post Offices who by his communication dated 21.12.1988 addressed to the present applicant contained in Annexure-4 said as follows :

" The solvency certificate filed by you is not acceptable. Therefore it is decided not to reinstate you in your former post of EDBPM Badasahara BO in account with Bhapur SO. "

Being aggrieved by this order, the applicant has come up before this Bench with the aforesaid prayer.

3. In their counter, the respondents maintained that on the date on which the applicant was required to file the solvency certificate i.e. on 29.12.1984, he had no landed properties in his own name and the sale deed obtained from his grand father was much later and therefore, rightly the competent authority did not accept the solvency certificate. Hence, the case being devoid of merit, is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) at some length. Mr. Misra, learned counsel for the applicant submitted before us that in view of the

directions given by this Bench in its judgment passed in O.A.252 of 1987, it was no longer open to the Senior Superintendent of Post Offices, Puri Division, Puri to say (though he has not categorically said so but inferring from the counter) that the solvency certificate is not acceptable because the sale deed obtained by the applicant from his grand father had not been executed by 29.12.1984. While repudiating this argument of Mr. Misra, learned Additional Standing Counsel (Central), Mr. Tahali Dalai submitted with vehemence relying on paragraph 9 of the counter that on 29.12.1984, there being no property in the name of the present applicant, the candidature of the present applicant was rightly rejected. The fallacy of the argument advanced by Mr. Dalai is that we have said nowhere in the judgment regarding holding of property in his own name (applicant's name) as on 29.12.1984. The candidature of the applicant was rejected solely on the ground that he did not file any solvency certificate and therefore, the applicant had come up before this Bench agitating his grievance which formed subject matter of O.A.252 of 1987. Therein, we specifically said that if the original solvency certificate is filed before the competent authority then he should consider the same and pass necessary orders. After expressing our opinion, (as above) in the judgment the only question that was left open to be considered by the competent authority is that whether the solvency certificate is genuine or not. The Senior Superintendent of Post Offices nowhere said that it is a manufactured or created

document about which Mr. Dalai has made a lot of submissions. Mr. Dalai has no legs to stand ~~up~~ while putting forth the said arguments, because in the counter nowhere it is said that the solvency certificate is a manufactured one. On the contrary it is said that on verification it is found that the solvency certificate was granted by the competent revenue authority. Such being the situation, we find no merit in the contentions advanced by Mr. Dalai. There being no further ground for rejecting the solvency certificate, we would direct that the solvency certificate be accepted and the applicant be reinstated to the post in question within one month from the date of receipt of a copy of this judgment.

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

*DRB
8.2.89*
.....
Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN,

I agree.

*BRB
8.2.89*
.....
Vice-Chairman

Central Administrative Tribunal
Cuttack Bench, Cuttack.
February 8, 1989/S. Sarangi.

