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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 9 of 1989

Date of decision: February 21, 1989

1. Bijay Kumar Sahu, aged about 32 years  
son of Lingaraj Sahu at present working as  
Extra-Departmental Branch Postmaster at  
Sonepur Branch Post Office, in account with  
Daringbadi S.O., District-Phulbani. .... Applicant

-Versus-

1. Union of India, represented by  
its Secretary, Department of Posts,  
Dak Bhavan, New Delhi.

2. Postmaster General, Orissa Circle,  
At, P.O. Bhubaneswar, Dist. Puri

3. Superintendent of Post Offices,  
Phulbani (O) Division, At/P.O. Dist.  
Phulbani. .... .... Respondents

For the applicant .... M/s. Devanand Misra,  
Deepak Misra &  
Anil Deo, Advocates

For the Respondents .... Mr. A.B. Misra, Senior Standing  
Counsel (Central) &  
Mr. T. Dalai, Addl. S.C. (Central)

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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)

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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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JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to command the respondents not to remove him from service and to absorb him on regular basis as Extra-Departmental Branch Postmaster, Sonepur within the district of Phulbani.

2. Shortly stated, the case of the applicant is that vide Annexure-1 the applicant was appointed as Extra-Departmental Branch Postmaster of Sonepur Post Office within the district of Phulbani with effect from 21.12.1985 till 31.3.1986 or till the regular appointee takes over charge of the Post Office whichever is earlier. No person satisfying the conditions of eligibility being available, extension of the services was granted in favour of the applicant from time to time and before the regular recruit actually took over charge of the said Post Office the applicant came up before this Bench with the present applicant with the prayer as mentioned above and by order dated 17.1.1989 we directed that as an interim measure, <sup>that</sup> the applicant should not be dislodged from the post which he is holding and accordingly, the applicant is continuing in the said post.

3. In their counter, the respondents maintained that the applicant was given appointment on provisional basis because no regular recruitment had taken place and despite advertisement published by the competent authority inviting applications, no candidate satisfying the eligibility criteria was available and once a candidate complying

with the requirements was available, he has been appointed to the said post and in compliance thereof the applicant is bound to vacate the post of Extra-Departmental Branch Postmaster, Sonepur in favour of the regular recruit. Thus, there being no merit in the case at hand, it is liable to be dismissed.

4. We have heard Mr. Anil Deo, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) at some length. Mr. Dalai, learned Addl. Standing Counsel (Central) strenuously urged before us that the rule ~~contemplates~~ that a candidate must have read upto Standard VIII whereas the present applicant has passed Class VII. Therefore, the applicant having lacked in requisite educational qualification, the order of regular appointment could not be issued in favour of the applicant and a candidate who has satisfied the eligibility criteria including the educational qualification, has been appointed to the post in question and therefore, the case being devoid of merit should be outright dismissed. On the other hand, it was contended by Mr. Deo that even though the applicant has passed Class VII yet his ~~experience~~ in discharging his duties in the Post Office and his loyalty and sincerity should have heavily weighed with the competent authority and there being several instances in which persons passing Class VII ~~standard~~ having been appointed, the same view ~~in~~ favour of the applicant should have been taken by the competent authority and an appointment order should have

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issued in favour of the applicant especially taking into consideration the experience gained by him. After giving out careful consideration to the arguments advanced at the Bar we cannot say that the departmental authorities should violate the rules even though the departmental authorities might have violated the provisions of the rules in appointing persons who have passed Class VII, in case the contention of Mr. Deo is true or correct, yet we feel that it is a very hard case in which the departmental authorities should take a compassionate view over the applicant and in case any other post of Extra-Departmental Branch Postmaster is available or would be available in near future, the case of the applicant may be considered for appointment keeping in view his experience in discharging his duties in the Post Office.

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

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21-2-89  
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

*I agree.*

*.....*  
21-2-89  
Vice-Chairman.

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
February 21, 1989/Sarangi.

