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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 117 of 1989

Date of decision 25th April, 1989

1. Shri Chandrasekhar Khatua, son of Shri Baman Khatua, aged about 33 years At/P.O. Tangisahi, Via-Bolgarh, District-Puri, now working as Extra-Departmental Delivery Agent of Tangisahi Branch Post Office in Account with Bolgarh S.O.

.... 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, District-Puri

3. Senior Superintendent of Post Office, Puri Division, At/P.O./District-Puri

4. Sub-Divisional Inspector of Posts, Nayagarh East, Nayagarh, District-Puri.

.... RESPONDENTS

For the Applicant M/s. Ranjit Roy,
& M. Kanungo, Advocates

For the Respondents Mr. A.B. Misra, Senior Standing
Counsel (Central)

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 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

JUDGMENT :-

K.P.ACHARYA, MEMBER (J) In this application Under Section 19 of the Administrative Tribunal's Act, 1985, the Petitioner prays for a direction to be issued to the Opposite Parties to appoint the Petitioner in the post of Extra Departmental Delivery Agent in Tangisahi Post Office.

2. Shortly stated, the case of the Petitioner is that his father Baman Khatua was discharging duties of Extra Departmental Branch Post Master of Tangisahi post office in account with Bolagarh within the district of Puri. For certain physical ailment Baman Khatua took invalid pension and retired from service on 20th April, 1988. As a temporary arrangement the Petitioner was appointed in place of Baman Khatua to carry out the day to day Administrative work pending final selection. The Petitioner's apprehension is that for the purpose of final selection the candidature of the Petitioner would be rejected and being aggrieved by this act of the Opposite Parties, this application has been filed with the aforesaid prayer.

3. In their Counter, the Opposite Parties maintained that the Petitioner is not qualified ~~himself~~ (educational qualification) to become eligible for the post of Extra-Departmental Delivery Agent. The appointment of Petitioner as Extra Departmental Delivery Agent being temporary in nature/provisionally, the authorities have no other option but order to fill up the post on regular basis. Therefore, the case being devoid of merit is liable to be dismissed.

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4. We have heard Mr. Milan Kanungo, Learned Counsel for the Petitioner and Mr. A.B. Misra, Learned Senior Standing Counsel (Central) at some length. The Learned Senior Standing Counsel (Central) submitted before us that in view of the provision contained in the rules prescribed that the minimum qualification for the post of Extra Departmental Delivery Agent being standard VIII, the concerned authority can not exercise his discretion in favour of the Petitioner, in no circumstances, because the Petitioner has admittedly read up to class VII. We are in complete agreement with learned Senior Standing Counsel (Central) that no authority could violate the mandatory rules and therefore we are of opinion that it would be utterly difficult on the part of the Competent Authority to consider the candidature of the Petitioner when he has admittedly ~~ineligible~~ so far as the educational qualification is concerned. We find substantial force in the contention of Learned Senior Standing Counsel (Central) and in such circumstances we can not give any direction to the competent authority to consider the case of the Petitioner. To that extent the prayer of the Petitioner stands rejected.

5. Here is a case which needs a compassionate view by the concerned authority. Admittedly, the petitioner's father has taken invalid pension which virtually means that he was not able to do any work to earn any livelihood. In order to supplement his contention Mr. Kanungo submitted before us that there is a large family depending on Baman Khatua i.e. ~~father~~ of the petitioner. No other members of the family has

any source of income. In such circumstances we feel that this is a suitable case where the merciful ~~hand~~ ^{hand} of the Post Master General should be invoked because the father of the Petitioner has served the Department for a long time without any blemish.

6. In such circumstances we would say that a compassionate view should be taken which would be ^{in his} with the instructions issued by the D.G. and P.T. in his letter No. 43-212/79/PEN, dated 4th August, 1980, laying down the educational qualification of Extra Departmental Delivery Agent as standard VII and so far as other category of E.D. Agent are concerned the same educational qualification is prescribed for them. As it appears from the relevant rules, ^{and that} Stamp Vendor has to pass standard VII which the petitioner has ^{and} therefore we would say that the case of the petitioner be considered for the post of Stamp Vendor or any other post of "other category agent" for whom there is no prescribed educational qualification or any other post according to the qualification of the petitioner. We hope early action would be taken in the matter. We would further direct that the petitioner should be allowed to continue in the post of Extra Departmental Delivery Agent in Tangisahi post office till regular arrangement is made to the such post.

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

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Copy of this judgment be sent in the name cover of,
to the post Master General, Orissa Circle, At/P.O.Bhubaneswar,
Dist.Puri for his information and necessary action as deemed
fit and proper.

MEMBER (JUDICIAL)

B. R. PATEL, VICE-CHAIRMAN

I agree.



VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
25th April, 1989/Mohapatra