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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 126 of 1989

Date of Decision : December 24, 1991.

Jiten Kumar Giri

Applicant

Versus

Union of India & others

Respondents

For the applicant

M/s. Devanand Mishra,
Deepak Mishra, R.N.
Naik, A. Deo, B.S.
Tripathy, P. Panda
Advocates

For the respondents

Mr. T. Dalai, Addl. Standing
Counsel (Central)

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C O R A M

HON'BLE MR. K.P. ACHARYA, VICE-CHAIRMAN

AND

HON'BLE MR. J.C. ROY, MEMBER (ADMINISTRATIVE)

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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(14)

JUDGMENT

MR. K.P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, it is prayed by the petitioner that a direction be issued to the opposite parties directing them not to compel the petitioner to go for any confirmation by the Medical Board regarding his physical deformity as per letter dated 17.3.1989 and further direct to treat the petitioner as an Orthopaedics Handicapped person and to deal with his case as per Office Memorandum contained in Annexure-7 dated 4.9.1985.

2. Shortly stated the case of the petitioner is that the petitioner is at present working as an Extra Departmental Stamp Vender in the Arunodaya Market Branch Post Office at Cuttack. The petitioner has registered himself as a physically handicapped person in the Special National Employment Exchange at Bhubaneswar as per Annexure-1. The Chief District Medical Officer, Cuttack vide Annexure-2 dated 22nd September, 1981 has certified that the petitioner is a physically handicapped person. The Professor and Head of the Department of Orthopaedics, S.C.B. Medical College vide Annexure-3 has certified that the petitioner is physically handicapped. Because of the physical deformity and being handicapped the petitioner was appointed as an Extra Departmental Stamp Vender. For the filling up of the post of a Postman (which is a promotional post) the petitioner has appeared in an examination held on 31.1.1988. At present the departmental authority (CP No.3) is requesting the Chairman of the said Medical Board, Cuttack to examine

and confirm the deformity of the petitioner for which this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintained that though the petitioner has qualified in the examination and though the relaxation of physically handicapped person is applicable to the present petitioner, yet the Circle Secretary of a Board Union made a representation alleging that the petitioner should not be given the benefit of relaxation and hence the petitioner has been asked to appear before the Medical Board to obtain a certificate.

4. We have heard Mr. Deepak Mishra, learned counsel for the petitioner and Mr. T. Dalai, Addl. Standing Counsel (Central) on the merits of this case. From the pleadings of the parties it is admitted that the petitioner was appointed as an Extra Departmental Stamp Vender in the Arunodaya Market Branch Post Office having come within the category of physically handicapped person. We have perused Annexures-2 and 3. Annexures-2 is a certificate given by the Chief District Medical Officer, Cuttack, wherein it is stated that the petitioner is suffering from chronic osteomyelitis - Right Tibia and ^{dis}ability is more than 40 per cent. Annexure-3 is the certificate granted by the Professor and Head of Department of Orthopadics, S.C.B. Medical College, Cuttack. He also certifies that the petitioner is physically handicapped as he is suffering from the same disease having a partial disability of 40 per cent. It is far beyond

our comprehension as to what purpose would be served if the petitioner appears in the Medical Board, because the Professor of Orthopadics and the Chief District Medical Officer, Cuttack are also members of the said Board. If their certificates are not honoured at present, we are unable to comprehend as to what importance could be attached to the certificate of the Board in which both these doctors ^{may} be parties. Therefore, in our opinion just because of Circle Secretary raised an objection, it would not be just and proper to drive the petitioner for another medical examination, especially when. Initially the petitioner has been appointed as a physically handicapped person. In the circumstances stated above, we hereby quash the order of the competent authority asking the petitioner to appear before the Medical Board and we further direct that the concerned authority may act upon the certificates granted by the Chief District Medical Officer and the Professor, Head of the Deptt., Orthopadics and consider the case of the petitioner for promotion in the light of the instructions contained in Annexure-7 which is the Office Memorandum of Ministry of Personnel & Training bearing No. 14016/3/85 dated 4.9.1985. Thus the application is accordingly disposed of. No costs.

MEMBER (ADMINISTRATIVE)



Central Administrative Tribunal
Cuttack Bench, Cuttack
December 24, 1991/B.K.Sahoo/

VICE-CHAIRMAN