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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. NO. 12 OF 1989.

Date of decision - March 23, 1990.

Jogeswar Sahoo ... Applicant

Versus.

Union of India and others ... Respondents

For Applicant - ... M/s. S.K.Das, and S.B.Jena
Advocates

For Respondents - 1 to 3 ... Mr. Tahali Dalsi,
Addl.S. C. (Central)

For Respondent No.4 ... None.

Coram :

The Honourable Mr. B.R. Patel, Vice-Chairman

A n d

The Honourable Mr. N. Sengupta, Member(Judicial)

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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.
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J U D G M E N T.

N. SENGUPTA, MEMBER (J).

In this application under section 19

of the Administrative Tribunals Act the relief that has been sought for is for quashing the order of termination of the appointment of the applicant as E.D.B.P.M. as at Annexure-5

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2. The undisputed facts may be set out at the beginning. An advertisement and a requisition to the local Employment Exchange were made to sponsor candidates for appointment as E.D.B.P.M. Niktimal Branch post office under Kulabira Sub-office in the district of Sambalpur. The name of the applicant was sponsored by the Employment Exchange and he also made an application. The applicant was asked to appear before the appointing authority and thereafter he was informed that he was provisionally selected for being appointed as E.D.B.P.M., Niktimal B.O. To this extent the parties are agreed. The case of the applicant is that in pursuance of the order of the Postal department i.e. respondent No.3, he took over charge of that Branch post office on 6.11.87 after undergoing a training for eight days. Thereafter he continued to work as E.D.B.P.M. of that post office. Subsequently i.e. on 18.3.88 an order appointing him provisionally was issued and this order was really not valid or legal inasmuch as it be stated that his (applicant's) appointment ^{was} /for a period of six months from 6.11.87 or till a regular appointment was made, whichever period would be shorter. After that, he made a representation for appointing him on permanent basis , a copy of which is at Annexure-4. On 26.7.88 (copy at Annexure-5) an order terminating the applicant's services with immediate effect was passed and this is the impugned order.

3. Respondents 1 to 3 are Union of India, Postmaster General, Orissa Circle and the Senior Superintendent of

Post offices, Sambalpur Division and respondent No.4 is the person who was appointed as E.D.B.P.M. after the termination of the services of the applicant. Respondents 1 to 3 have filed a counter and respondent No.4 has not entered^{ed} appearance even though he was noticed. The case of the respondents 1 to 3 is that the applicant along with other candidates had made applications and the applicant was provisionally selected subject to verification of antecedents and filing of necessary documents. After the applicant was appointed provisionally, his antecedents were verified, as the police reported that the applicant was not well reputed in his village, his services were terminated. It has further been averred in the counter that the applicant was made aware of the fact that his appointment was provisional and for six months at the longest. The substance of the case of the contesting respondents is that the applicant was not only reported to be ill-reputed in his locality but also he made a suppression of the fact of his involvement in a criminal case while submitting the attestation form. Therefore, he disqualified himself from continuing as E.D.B.P.M..

4. We have heard the learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel for the respondents 1 to 3. It is contended on behalf of the applicant that the order of provisional appointment cannot be sustained because ^{it is based on} ~~he made~~ a mis-statement of certain facts. It is urged on behalf of the applicant that from the requisition made by the department to the Employment

Exchange it would be apparent that the requisition was for appointing an E.D.B.P.M. on regular basis and not on ad hoc or temporary basis. Therefore, there was no meaning in mentioning in the order of provisional appointment (Annex-3) that it was not possible to make a regular appointment in the circumstances then obtaining. It has further been urged on behalf of the applicant that the department verified the relevant documents and the Branch post office was housed in the applicant's premises as required under the rules. Therefore, all that was necessary for a regular appointment had been gone through and it was not open to the Postal authorities to say that it was not possible to make a regular appointment. This argument of the learned counsel for the applicant carries some force.

5. Mr. Dalai for the respondents 1 to 3 has contended that the provisional appointment was subject to verification of the antecedents of the applicant and that is why it was made at the first instance for six months. He has further drawn our attention to the report of the Additional District Magistrate, Sambalpur to the Senior Superintendent of Post Offices, Sambalpur Division and has contended that when the Officer-in-charge of the Police station under which the village of the applicant is, reported that the applicant was ill-reputed, the applicant could not be retained any further in service. The copy of the report of the A.D.M., Sambalpur is at Annexure-R/3 to the counter. From this document, it would be found that ~~though~~ the Officer-in-charge of Laikera Police station, within the jurisdiction of the P.S. the village of the applicant is, reported that the applicant

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was involved in Laikera P.S. Case No. 137 dated 22.10.83 and this fact, it is urged by Mr. Dalai, was suppressed by the applicant while filling up the attestation form. True it is, that a police officer may be in a position to know the conduct and character of a person living within his jurisdiction, but when his higher authority reports that nothing is known against the person with respect to whom the report is sent, the value of the report of the police officer of lower rank is much diminished. There is no case from the side of the respondents that after receipt of the report of the Additional District Magistrate, the department made any further enquiry to reconcile the two contradictory reports by two persons belonging to the same service. Therefore it is difficult to support the action of the respondent Nos. 1 to 3 in terminating the services of the applicant basing on that report of the Additional District Magistrate which is based on the report of the Thana Officer. Besides, no copy of the attestation form has been produced before us. Apart from that, from the certified copy filed by the applicant it would appear that the Criminal case to which Mr. Dalai has referred ended in the acquittal of the applicant.

6. For the aforesaid reasons, we would quash the order of termination of the services of the applicant (Annexure-5), but however, as in the meantime, respondent No. 4 has been appointed and is working in that post, we would allow one month's time from the date of receipt of the copy of this order to reinstate the applicant in service as E.D.B.P.M., Naktimal Branch Post office after serving

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the required notice on him. In the circumstances of the case, there shall be no order as to costs. The applicant would not be entitled to wages for the period he did not work.

R. M. Hill

Vice-Chairman.



W. L. C. L. 23/3/90.

Member (Judicial)