

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.196 of 1989.

Date of decision : July 26, 1990.

Prasanta Kumar Tripathy ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. Deepak Misra,
R.N. Naik,
A. Deo,
B.S. Tripathy, Advocates.

For the respondents 1 to 4 .. Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

For the respondent No.5. . . M/s. B.C. Swain,
P.K. Parida, Advocates.

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN
A N D

THE HONOURABLE MR. N. SENGUPTA, 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

N. SENGUPTA, MEMBER (JUDICIAL) The applicant herein has prayed for a direction to cancel the appointment of Respondent No.5 as Extra-Departmental Delivery Agent (E.D.D.A.) of Bodhapur Branch Post Office.

2. The facts averred by the applicant are that he was appointed provisionally as an E.D.D.A. of the abovesaid

Post Office vide Annexure-1 and he took over charge of the Office of E.D.D.A., Bodhapur Branch Post Office. After that the Sub-Divisional Inspector of Post Offices, Central Sub-Division, Cuttack asked him not to perform the duties of the E.D.D.A. of Bodhapur Branch Office. Respondent No.5 was brought in and he joined on 25.4.1989. This appointment of Respondent No.5 has been challenged. The applicant has alleged that Respondent No.5 had been suspended from service while he was working under OMFED organisation of the State Government Public Sector Undertaking and further that Respondent No.5 has been involved in Police case which are pending against him in Kishorenagar Police-station. These facts were brought to the notice of the Departmental authorities but inspite of that he (the applicant) has not been allowed to work and Respondent No.5 has been ~~thrust~~. The other allegations in the application need not be stated here.

3. The respondents 1 to 4 in their counter affidavit have stated that the Department has no information about Respondent No.5 having ever been suspended or of any Police case pending against that Respondent. They have further stated that the Collector, Cuttack was addressed to get the antecedents of Respondent No.5 verified.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for Respondents 1 to 4. Mr. Deepak Misra has drawn our attention to the public advertisement made and he has also drawn our attention to the Rules for appointment of EDDA, particularly Rule 12 which speaks

of the procedure to appoint E.D.D.As. Mr. Deepak Misra's contention is that when the Department asked the Employment Exchange at Arunodaya Market, Cuttack to sponsor names and fixed the time limit within which the names were to be sent, it was neither open nor proper for the departmental authorities to issue the public advertisement prior to the expiry of that date. This would go to show that there was undue haste, possibly for ulterior reasons. On the other hand, Mr. Aswini Kumar Misra has contended that initially the Employment Exchange at Jagatsinghpur had been informed to sponsor names and that was in January, 1989 and no names were sponsored till March, 1989. Therefore, the Employment Exchange at Arunodaya Market was requested to sponsor some names and a public advertisement was issued so as to make the field of choice wide. We have no information as to under jurisdiction of which Employment Exchange Bodhapur Branch Office comes nor is there anything in the requisition sent to Arunodaya Market Employment Exchange to indicate the reasons for requesting that Exchange to sponsor names. Such being the position, we are unable to come to a definite conclusion about the propriety or or impropriety of the procedure adopted by the Department in asking the two Employment Exchanges for sponsoring names. At present we would say that Rules require to ask the Employment Exchange having jurisdiction over the area to sponsor ~~the~~ names.

5. Mr. Deepak Misra, learned counsel for the applicant

has contended that before an appointment of a person as E.D. agent is made; his antecedents are to be verified and he has also drawn our attention to the relevant rule.

Mr. Aswini Kumar Misra does not dispute the position that for a regular appointment, a verification of the antecedents of the appointee has to be made. But his contention is that the appointment of Respondent No.5 had not been regularised, it was only a provisional one subject to the result of verification of antecedents. Ofcourse, when the situation so demands urgent action for making provisional appointments may be made but here is a case where the applicant had been officiating as the E.D.D.A. of Bodhapur Branch Office, so it was not a case where there was none in charge of the post.

6. We would therefore, quash the selection of Respondent No.5 as E.D.D.A., Bodhapur Branch Office and direct that a selection by following the proper procedure be made within a period of three months from the date of receipt of a copy of this judgment. Till then, the concerned Mail Overseer to remain in charge of E.D.D.A., Bodhapur B.O.

7. This application is accordingly disposed of leaving the parties to bear their own costs.



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Vice-Chairman

B.M.M. 26.7.90

Neelam 26/7
.....
Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
July 26, 1990/Sarangi.