

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH: CUTTACK.

Original Application No.249 of 1989.

Date of decision: 29th November, 1990.

Sri Purna Chandra Behera, aged 33 years
S/o Late Hadibandhu Behera,
Upper Division Clerk,
Keonjhargarh Head Post Office,
At/P.O. Keonjhargarh
Dist. Keonjhar.

..... Applicant

-Vs-

1. Union of India, represented by
Postmaster General,
Orissa Circle,
Bhubaneswar.
2. Superintendent of Post Offices,
Keonjhar Division,
At/P.O. Keonjhargarh,
District Keonjhar.

..... Respondents

For the Applicant Mr. P.V. Ramdas, Advocate

For the Respondents Mr. Aswani Kumar Misra
Senior Standing Counsel
(Central).

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN
A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be
allowed to see the Judgement ? Yes.
 2. To referred to the Reporters or not ? ^{^10}
 3. Whether Their Lordships wish to see the fair
copy of the Judgement ? Yes.
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: - J U D G E M E N T : -

B.R.PATEL, VICE-CHAIRMAN

The applicant was directly recruited to a post of Upper Division clerk in the Savings Bank Control Organization (SBCO) with effect from 20th June, 1983. According to instructions of the Director General Posts and Telegraphs dated 18.2.72 (Annexure-R/1) he was to pass the confirmation Examination within 4 years availing maximum of 3 chances. The applicant appeared in the Examination once in 1984 but failed. He availed another chance in 1986 without success. Another Examination was scheduled to be held on 21.8.87 and he was allowed to sit in this Examination as a special case as the period of 4 years had expired on 19.6.87. However he could not avail of this facility due to illness.

2. The Respondents have maintained in their counter affidavit that on his returning to duty within 10 days of expiry of leave he did not apply for withdrawal of his candidature and as such he is not entitled to any further concession.

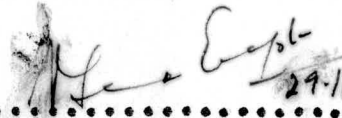
3. We have heard Mr. P.V. Ramdas, the learned Counsel for the applicant and Mr. A.K. Misra, Senior Standing Counsel (Central) for the Respondents and perused the relevant documents. Mr. Ramdas pleaded that this Tribunal has already allowed the applicant to appear in the Examination held on 5.6.89 provisionally and should allow him the benefit of the Examination if he succeeds. Mr. A.K. Misra, however vehemently controverted Mr. Ramdas on the ground that the applicant failed to qualify within the prescribed period and also did not avail of the Examination held in August, 1987 where he was allowed to appear as a special case and further submitted

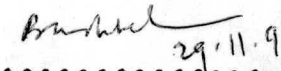
B. R. Patel

that even after availing of the leave on medical ground he did not apply for withdrawal of candidature within 10 days of his return to duty and as such the applicant deserves no sympathy. Moreover, according to Mr. Misra, it is a matter of discretion on the part of the Authority as has been laid down in Rule 279/1(5) of the P and T Manual Vol-4 (Annexure-R/2).

3. After having heard the Counsel on both sides, and after perusal of the documents we are of the view that it is a matter where a little compassionate view on the part of the Department will not ^{be} mis-placed. We have come to this conclusion for the reasons that he was in fact ill which prevented him from availing of the special facility which was extended to him by the Department. His inability to apply for withdrawal of candidature within 10 days of his return to duty is too technical a ground to be allowed to deprive him of a chance for his confirmation. Moreover, we have already allowed him to take the examination which was held in 1989 and it is but proper that he should be allowed the benefit of the Examination if he succeed in the Examination.

4. Accordingly, the case is disposed of, leaving the parties to bear their own costs.


.....
MEMBER (JUDICIAL)


.....
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack
29th November, 1990/Mohapatra

