

9  
11

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH : CUTTACK.

Original Application No. 278 of 1989

Date of decision : 2nd March, 1990.

Biswajit Misra, aged about 20 years  
son of Bhabagrihi Misra, E.D. Packer-cum-  
E.D.M.C., Daily Market S.O., Rourkela,  
District-Sundergarh, at present residing  
at Qrs. No. 6E-49, Basanti Colony,  
Rourkela-12, Dist. Sundergarh.

..... Applicant

Versus

1. Union of India represented by its  
Secretary, Department of Posts,  
Dak Bhavan, New Delhi.
2. Chief Postmaster General, Orissa,  
At/P.O. Bhubaneswar, District-Puri.
3. Senior Superintendent of Post Offices,  
Sundergarh Division, P.O./Dist. Sundergarh-770001.
4. Sub-Divisional Inspector (Postal),  
Rourkela West Sub-Division,  
Rourkela-2, District-Sundergarh.
5. Prasanta Kumar Rout,  
Son of Jadumani Rout, of village-  
Balipatha, P.O. Mouda, Via-Bhadrak,  
Dist. Balasore, at present residing  
at Qrs. No. CT/14, Sector-IV, Rourkela-2,  
Dist. Sundergarh.

..... Respondents

For the Applicant ..... M/s. Devanand Misra  
Deepak Misra &  
A. Deo.

For the Respondents ..... Mr. T. Dalei, Addl. Std. Counsel  
(Central)

-----  
C O R A M :

THE HON'BLE MR. P. S. HABEEB MOHD, MEMBER (ADMN)  
A N D

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

1. Whether reporters of local papers may be allowed  
to see the judgement ? Yes.
2. To referred to the Reporters or not ?
3. Whether Their Lordships wish to see the fair  
copy of the Judgement ? Yes.

:- JUDGEMENT :-

P.S.HABEEB MOHD, MEMBER (ADMN) Biswajit Misra, E.D.Packer-cum-E.D.M.C.,

Daily Market S.O., Rourkela has filed this application under Section 19 of the Administrative Tribunal's Act, 1985 with the prayer for issue of directions quashing the orders in Annexure-3 in which Respondent No.5 was appointed as E.D.Packer-cum-E.D.M.C., Rourkela and further directions to the Respondents to make selection to the post taking into consideration the past experience of the applicant.

2. His case is that he was appointed as substitute for one Sri Padmanabha Jena as E.D.Packer and when Respondent No.4 vide his notice dated 14.3.89 called for names of candidates for appointment of the said post on the regular basis, the applicant gave his application for consideration of his case but it was rejected. The Respondents have stated in their reply that the applicant was working as substitute for various periods though not continuously from 5.10.85 till 6.6.89, Sri Padmanava Jena was regularly appointed as a peon and the applicant was appointed on ~~provisional~~ basis vide Respondent No.4 in his Memo No.A-16 dt.15.12.88; the names of the eligible candidates were invited and 37 application were received; Respondent No.5 was considered and he was found to be more qualified than the applicant. It is stated as follows in their reply:

"The applicant was staying at Rourkela since 1985. Whereas Respondent No.5 was staying from his very child-hood with his parents since the year 1963 and had continued his study at Rourkela.

The applicant is a permanent resident of Cuttack District

and Respondent No.5 is a permanent resident of Balasore District. Respondent No.5 was selected considering his higher qualification and residing longer period of stay at Rourkela". On a perusal of the documents and after hearing the respective Counsels we find that the Rule(iii) for recruitment as follows:-

(ii) "E.D. Mail Carriers, Runners and Mail Peons should reside in the station of the main post office or stage wherefrom ~~no~~ mails originate/terminate, i.e. they should be permanent residents of the delivery jurisdiction of the post Office."

(iii) "ED Agents of other categories may, as far as possible, reside in or near the place of their work (D.G.P.T. Letter No. 43/84-80-Pen dated 30th January, 1981)".

It is un-doubted that neither the applicant nor the Respondent No.4 are permanent residents of Rourkela. The applicant had the advantage of working as E.D.M.C.-cum-E.D.Packer for a provisionally period and also for a long period though he was a substitute. It is not clear what educational qualification on the part of the Respondent No.5 was noticed by the Respondent No.4, so as to give preference to him. The rule only states that candidates should have sufficient working knowledge of the regional language and simple arithmetic, so as to enable <sup>him</sup> to discharge his duties satisfactorily. E.D. Employees should have ~~emphatically~~ knowledge of English. The Respondents have produced the Intermediate Arts pass certificate of the Respondents No.5, but this does not entitle him to any higher consideration. At the same time we do not find any materials sufficient to quash the appointment of Respondent No.5 to the post.



3. In the circumstances, while we do not find materials so as to quash the appointment of Respondent No.5 as per Annexure-3, sufficient materials exist which makes it necessary that the Respondents No.1 to 4 should consider the case of the applicant for appointment and adjust him suitably in the post which he was holding. He can be adjusted in the jurisdiction of Respondent Nos.3 and 4. This adjustment may be done within a period of one month from the date of receipt of the copy of the order.

There will be no order as to costs.

*M. S. Eshwarappa*  
.....  
MEMBER (JUDICIAL)

*P. H. S.*  
.....  
2/2/1990  
MEMBER (ADMINISTRATIVE)

