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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 346 of 1989

Date of Decision 10. 2. 1992

Madhusudan Dutta Applicant

Versus

Union of India & Others Respondents

For the applicant M/s. N.C. Panigrahi,
 K.P. Nanda,
 S.C. Dash,
 Advocates

For the respondents Mr. A.K. Mishra,
 Standing Counsel
 (Central Government)

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C O R A M

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

AND

HON'BLE MISS USHA SAVARA, 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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JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction ^{to be} issued to the opposite parties cancelling the order of appointment ^{passed} in favour of OP No.2 and with a direction to appoint the petitioner as Branch Post Master of Jagei Branch Post Office.

2. Shortly stated the case of the petitioner is that the petitioner had worked as E.D.B.P.M. of Jagei Post Office temporarily after the death of his father Shri Bhagabana Chandra Dutta. The competent authority had called for applications on two occasions and did not pass any orders. On the third occasion applications were invited and the petitioner and OP No.2 were ^{the} only two applicants. Opposite Party No.2 has been appointed for which the petitioner has a grievance and has come before this Court.

3. In their counter the opposite parties maintain that the petitioner did not satisfy the requirements for appointment to the post of E.D.B.P.M. and therefore he was not appointed and OP No.2 was preferred.

4. We have heard Mr. S. C. Dash, learned counsel for the petitioner and Mr. A. K. Mishra, learned Standing Counsel for the Central Government. We have perused the pleadings of the parties from which we find that the selection was confined only to two persons viz. the petitioner and OP No.2. Of course there is some discrepancy in the home address furnished by the petitioner as unfolded from Annexure-R/12

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vis-a-vis the address given in the first page of the application under Section 19. In the Annexure-R/12 it is stated that the petitioner belongs to Village Manikasimulia and in the application the address has been given as belonging to the village Jagei. We are not in a position to determine as to how this discrepancy could ^{be} reconciled ~~but one point~~ impressed us very much, namely, the selection process has been confined to only two persons. In our opinion the selection process should be confined to a wider zone, so that the selecting authority could exercise his discretion to adjudicate the suitability of different persons who should be more than three, especially when the rules require that there must be at least three persons to be considered. The second thing which weighed with us is that if the petitioner and his ancestors do not belong to village Jagei, then how could his father ^{be} appointed to Jagei Post Office. It may be that at the time of appointment of the father of the petitioner, this rule might not ^{have} come into force. However the main question on which we would like to ~~send~~ ^{this case} back on remand is that there should be a wider zone ~~considering~~ ^{of} more than three persons at least for consideration by the competent authority to adjudicate the suitability of the different incumbents for the post of E.D.B.P.M., Jagei Post Office. Therefore we do hereby quash the appointment of OP No.2 and we would direct the concerned Superintendent of Post Offices to

invite applications from open market and from the Employment Exchange and on receipt of the names, the cases of all the candidates including that of the petitioner and OP No.2 should be considered and the suitable person should be appointed. The cases of OP No.2 and the petitioner should also be taken into consideration if they make any applications and the whether the petitioner belongs to the post village is kept open to be determined by the Superintendent of Post Offices after due inquiry.

5. Since OP No.2 has already been appointed, we would direct as an interim measure that OP No.2 may continue as E.D.B.P.M., but this fact shall not weigh with the concerned authority in any way whatsoever while adjudicating the suitability of the different applicants. We hope and trust that the matter would be finalised within three months from the date of receipt of a copy of this judgment. Thus the application is accordingly disposed leaving the parties to bear their own costs.

H. S. Saha
MEMBER (ADMINISTRATIVE)

H. S. Saha
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 10th February, 92/BKSahoo

