

The Employment Exchange sent a list of four names including that of the applicant vide their letter dated 2.2.1988. On scrutiny of the documents furnished by the candidates and on consideration of other relevant factors, the appointing authority selected the applicant and appointed him as Extra-Departmental Branch Postmaster of Jagannathpur Branch Office. Thereafter, several allegations were made against the appointment of the applicant. One of the allegations was that Extra-Departmental Mail Carrier of Jagannathpur Post Office, Shri Karunakar Nayak was a relation of the applicant. On receipt of the allegations the Post Master General, Orissa Circle, caused an enquiry through the Assistant Superintendent of Post Offices (Vigilance). The Director (Vigilance) came to the conclusion that the applicant was the nephew of Shri Karunakar Nayak, Extra-Departmental Mail Carrier of the said Post Office. Since the employment of near relation of Extra-departmental agents should be avoided in the same Post Office, the Director held the appointment of the applicant as irregular and conveyed to the Superintendent of ^{Post Offices,} Balasore Division that the selection of the applicant as Extra-Departmental Branch Post Master of Jagannathpur Post Office has been set aside and as such his services might be terminated immediately and the date of his relief reported to the Office. Thereupon the Superintendent of Post Offices, Balasore Division vide his memo No. B/E 332 dated 11.9.1989, copy of which is at Annexure-1 to the application, terminated the services of the applicant with immediate

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effect on administrative ground in pursuance of the provision of Rule 6 of the E.D. Agents (Conduct & Service) Rules, 1964.

2. The respondents have averred in their written reply that no irregularity has been committed in terminating the services of the applicant since his further continuance would have caused administrative problems to the Department as one of his relations was working in the said Post Office.

3. We have heard Mr. R.C. Rout, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) and perused the papers. Mr. Rout has contended that relationship that subsists between the applicant and E.D.M.C. of the Post Office cannot be called close relationship by any stretch of imagination and that the order of termination of services of the applicant is patently illegal inasmuch as the applicant has not been afforded an opportunity to have his say before the Department terminated his services. He has further urged that the order of termination suffers from ^{an} incurable infirmity ^{in as much as} ~~as~~ it does not mention any specific reason for terminating the services of the applicant. In this connection he drew our attention to a judgment of the Tribunal reported in 1988(2) ATC 712 where -in it has been stated that any allegation made by one who is a candidate for the post should not be acted upon and the appointment made cannot be cancelled without hearing the appointee. Mr. Aswini Kumar Misra, on the

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other hand has averred that the allegations against the applicant are serious and in the course of enquiry the applicant has been given an opportunity to have his say. Infact, it is he who has indicated his relationship with E.D.M.C.Karunakar Nayak. In this connection Mr.Misra drew our attention to the enquiry report, particularly to Annexure-R/2 and particularly to the statement of the applicant dated 22.4.1989 vide Annexure-R/4 to the counter affidavit. This statement translated into English reads as follows:

" My grand-father (father's father) late Mani Nayak and father of Karunakar Nayak and Krutibasa Nayak, late Krushna Nayak were two brothers and sons of late Balabhadra Nayak."

We have held in our judgment in T.A.217 of 1986 delivered on 13.1.1987 that causins are close relations. We have no reason to hold that first causins are not close relations. Moreover, it is a matter for the departmental authorities to decide in the interest of administration. The circular that refers to undesirability of appointing close relatives in the Post Office is the letter of the Director General of Posts and Telegraphs bearing No.43/36/64.P.en. dated the 17th October, 1966. The relevant portions are as follows:

" Instances have come to light where very near relations have been appointed to work as ED BPM, ED DA or ED Mail Carrier in the same office. As this is fraught with the risk of frauds, etc. this should be avoided. "

The decision of the departmental authorities, therefore, in this regard cannot be found fault with.

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4. We therefore hold in view of the written statement of the applicant during the enquiry, ^{the} the applicant has been given an opportunity to have his say. We agree with Mr. Rout that allegation of interested party like the unsuccessful candidate in a selection for any job cannot be acted upon straightaway and this should be enquired into in order to ascertain the truth or otherwise of the matter. In this case we have found that the department has caused an enquiry with regard to the relationship of the applicant and that of the Extra-Departmental Mail Carrier, and as such we do not like to interfere with the order of the Department.

5. In view of what has been stated above, we find no merit in this application which stands dismissed. But there would be no order as to costs. Mr. Rout has however brought to our notice that Marunakar Nayak, E.D.M.C. has however died on 26.2.1990 which has not been controverted. The applicant has also filed a copy of the death certificate which leaves no room for any doubt. Since Karunakar Nayak, E.D.M.C. has died, Mr. Rout urges that the department may reconsider the appointment of the applicant as Extra-departmental Branch Postmaster, Jagannathpur Branch Office. We have no objection to the Department considering the case of the applicant for reappointment, if there has been no regular appointment in the meantime. We say this because the applicant was duly selected and his services were terminated only because a near relation of his ^{was} working in the said post Office.

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Member (Judicial)

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Vice-Chairman

