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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.43 of 1989.

Date of decision: May 24, 1989.

1. Sri Narendra Kumar Jena, son of Shri Bhagabat Prasad Jena, At/P.O. Keonjargarh working as Overseer (Mails) Keonjargarh Head Post Office.
2. Sri Pravakar Sethy, son of late Dinabandhu Sethy, At/P.O.Parasala, Via-Remuli, Dist Keonjhar working as Overseer (Mails), Keonjhar Head Post Office.
3. Sri Man Mohan Naik, son of late Sudarsan Naik, At/P.O.Tando, via-Sarapada, Dist-Keonjhar working as Overseer (Mails), Keonjhar Head Post Office.
4. Sri Duryodhan Sahu, son of Gopinath Sahu, At.Gobindpur, P.O.Ghature, Via-Keonjargarh Bazar Sub-Post Office working as Overseer (Mails) Keonjargarh Head Post Office.
5. Sri Basudev Jena, son of Krushna Chandra Jena, At/P.O.Bodapalsa, Dist-Keonjhar, working as Overseer (Mails), Keonjargarh Head Post Office.

... Applicants.

Versus

1. Union of India, represented by the Secretary to the Government of India, Ministry of Communication (Department of Posts), New Delhi.
2. Director General, Posts, India, Dak Bhawan, New Delhi.
3. Postmaster General, Orissa Circle, At/P.O.Bhubaneswar, Orissa Dist.Puri.
4. Superintendent of Post Offices, Keonjhar Division, At/P.O.Dist-Keonjhar (Keonjargarh) Dist.Keonjhar (Orissa).

... Respondents

For the applicants ... Mr.Pradipta K.Mohanty, Advocate.

For the respondents ... Mr.Ganeswar Rath,
Additional Standing Counsel (Central).

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.

C O R A M:

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

A N D

THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

J U D G M E N T

K. P. ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicants pray to quash Annexures-2 and 4 and to allow the applicants to continue in the cadre of Overseers.

2. Shortly stated, the case of the applicants (five in number) is that they were appointed as Postmen and in the year 1985 they were approved for promotion to the cadre of Overseers and since then they are working as Overseers. In process of time the Director General decided abolition of some posts of Overseers and in consequence thereof the applicants having been found to be surplus, they are sought to be reverted to the post of Selection Grade Postmen. Being aggrieved by this order, the applicants have come up before this Bench with the aforesaid prayer.

3. In their counter, the respondents maintained that the applicants should not have any grievance because the Selection Grade Postmen carry the same scale of pay like that of Overseers and both the posts are constituted in the

same grade though an Overseer (Mails) gets an allowance of Rs.40/- per month. According to the respondents the scale of pay of a selection Grade Postman and that of an Overseer being one and the same, there is no cause of action accrued in favour of the applicants to move this Bench. Further it is maintained by the respondents that some posts of Overseers (Mails) having been abolished and the applicants having been found to be surplus there was no other option left with the competent authority but to revert them to the post of Selection Grade Postmen. It is further maintained by the respondents that as and when vacancy will occur in the cadre of Overseers (Mails) the case of the applicants would be considered and due promotion would be given to them. Hence, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Pradipta K. Mohanty, learned counsel for the applicants and Mr. Ganeswar Rath, learned Additional Standing Counsel (Central) at some length. Learned Additional Standing Counsel (Central) emphatically submitted before us that the competent authority had no other option but to revert the applicants to the posts of Postmen carrying the same scale of pay like that of the Overseers because the applicants were found to be surplus as certain posts in the cadre of Overseers (Mails) stood abolished and the interest of the applicants not at all being affected in view of the same scale of pay and especially in view of the fact that the case of the applicants would be duly considered as and when vacancy occurs in the cadre of Overseers (Mails).

VII (12)

On the other hand, Mr. Pradipta Mohanty invited our attention to the contents of Annexure-1, containing the letter written on behalf of the Postmaster General by the Assistant Director addressed to the Superintendent of Post offices, Keonjhar Division. The Superintendent of Post Offices had sought for certain clarifications in regard to the circular issued by the Director General abolishing certain posts in the cadre of Overseers Mails. In reply thereto, the Asst. Director, Postal Department said as follows in paragraph 2 of his letter.

" The officials who have been approved for the Overseer cadres, but not appointed as such may be ordered to continue in postman cadre but those who have already been posted may be absorbed in the same cadre post. "

In paragraph 1 it has also been observed that surplus officials are to be absorbed against future vacancies. Till that time no retrenchment should be done. In the present case, admittedly the applicants have been promoted and appointed in the cadre of Overseers (Mails). Admittedly, the applicants are not being retrenched from service.

Mr. Rath submits that the departmental authorities still stand by the undertaking given in the counter that the case of the applicants would be duly considered for the posts of Overseers Mails whenever vacancy occurs. Keeping in ^{view} ~~kind~~ the observations made in paragraph 2 and quoted above, we would direct that if there are posts available in the cadre of Overseers Mails, then the applicants should be allowed to continue in the said posts as has been observed by the Director General, Posts and Telegraphs incorporated

in paragraph 2 of Annexure-1. In case of non-availability of posts in the cadre of Overseer Mails, the applicants should be given the job of Selection grade Postman and they should perform the duties of Selection Grade Postmen. This arrangement will continue till vacancies occur in the cadre of Overseers Mails. As soon as vacancies occur in the cadre of Overseers Mails the case of the applicants should be considered for promotion to the said cadre.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs. The stay order granted by this Bench stands automatically vacated.

B.R.PATEL, VICE-CHAIRMAN,

g agree.

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Member (Judicial)
24.5.89.



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24.5.89
Vice-Chairman.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
May 24, 1989/Saranghi.