

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

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ORIGINAL APPLICATION NO: 503 OF 1989

Date of decision: **February, 18, 1991**

Nishamani Patra : Applicants

Versus

Union of India and others : Respondents.

For the applicant : M/s P.Palit,
B.Mohanty,
A.Kanungo,
D.P.Dhalsamant
Advocates

For the Respondents : Mr. A.K.Mishra, Senior
Standing Counsel
(CAT)

CORAM:

THE HONOURABLE MR. B.R.PATEL, VICE CHAIRMAN

AND

THE HONOURABLE MR. N.SENGUPTA, MEMBER (JUDICIAL)

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.

JUDGMENT

N.SENGUPTA, MEMBER (J),

The present application is for quashing

the selection of Respondent No.4 as the Extra

Departmental Branch Post Master (EDBPM) of Parang in the
district of Dhenkanal.

2. Admitted facts are that a requisition

was made by the Superintendent of Post Offices, Dhenkanal
on 3.8.1983 to the Local Employment Exchange i.e. the
Employment Exchange at Angul for sponsoring names of
persons to be appointed as EDBPM, Parang Branch Office.

It is also undisputed that on the very same day an
open advertisement calling for applications from
persons desirous of being appointed as EDBPM was also
made. The applicant's case is that the procedure
adopted by the Postal Authorities being in contravention
of the instructions of the Director General of Posts

and Telegraphs, there was an illegality which vitiated
the selection of Respondent No.4 as EDBPM. His case
further is that the selecting authority did not consider
the merits of the candidates properly, particularly

*Mer 6th Aug 1984
KPV*

his previous experience as EDBPM and this vitiated the selection.

3. The case of the Respondents i.e. Respondent Nos. 1 to 3 is that Respondent No.4 undoubtedly made an application in response to the open advertisement but the employment exchange also sponsored the names of twenty persons and they were directed to make applications and file necessary documents in support of their solvency and character. The selection was done after considering the cases of each individual and with due regard to the independent source of income of the candidates.

4. We have heard learned Counsel for the parties and perused the relevant documents in the file. The learned Counsel for the applicant has very strenuously contended that the procedure adopted by the Superintendent of Post Offices issuing open advertisement before expiry of thirty days from the date of sending requisition to the employment exchange being illegal, the selection of Respondent No.4 should be set aside. Even though in the application an averment was made that the name of Respondent No.4 was not

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sponsored by the local employment exchange, yet on referring to Annexure-2 to the counter filed by Respondent Nos. 1 to 3, he could not press before this Tribunal that the name of Respondent No.4 was not sponsored by the employment exchange. May be it was not open to the Superintendent of Post Offices to issue an open advertisement before the expiry of thirty days from the date of sending the requisition to the employment exchange but nothing avails to the applicant because the name of Respondent No.4 was sponsored by the employment exchange. The learned Counsel for the applicant next contended that the list of names sponsored by the employment exchange was received after the expiry of thirty days from the date of sending of the requisition to the employment exchange, therefore, the authorities could not have acted upon such a list. What the instructions provide is that the employment exchange concerned should send a list of names within thirty days from the date of sending of the requisition, in none of the places

Mer 18/1/91.

is there any reference to the date of receipt of requisition by the employment exchange or the list of candidates by the requisitioning authority. We therefore, cannot accept the contention of the applicant. We have very carefully gone through Annexure-R/5 and we find that in fact the case of the applicant was considered and his qualification, income etc. were noted down. The learned counsel has contended that what really weighed with the Departmental authorities in selecting Respondent No.4 as EDBPM was the fact that he having more income had adequate means of livelihood, ~~and~~ was better than the other candidates. The quantum of income is not the determining factors, ^{but} if the selecting authority thought that a person having more income should be selected ~~is~~. This Tribunal is not itself a selecting authority, it can interfere only when there has been a deviation from the norms of natural justice or from the prescribed rules which the applicant has failed to prove. Accordingly we are unable to grant the reliefs sought for by the applicant. If subsequently a vacancy arises, the applicant may apply and his

*Subj,
Mr. M.*

previous experience should be taken into account.

5. This case is accordingly disposed of leaving the parties to bear their own costs.

Mr. Mohanty
..... 18.2.91
VICE CHAIRMAN

Mr. Sankar
..... 18.2.91
MEMBER (JUDICIAL)



Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.