

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

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)

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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.
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J U D G M E N T

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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 <sup>Exp 6</sup> <sub>HP</sub> 91.

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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

Mr. Supt.  
18/12/91.

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 <sup>- of course -</sup> the determining factor<sup>^</sup>, <sup>but</sup> if the selecting authority thought that a person having more income should be selected <sup>- there is nothing wrong. -</sup> ~~to~~. 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

See Expt. 11  
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previous experience should be taken into account.

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

*M. K. Mohanty*  
.....18.2.91  
VICE CHAIRMAN



*N. S. Sanyal*  
.....18.2.91  
MEMBER (JUDICIAL)

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