

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

Original Application No. 91 of 1989.

Date of decision : May 3, 1989.

Manoranjan Mahapatra, aged about 25 years,  
son of late Lokanath Mahapatra, village and  
P.O. Kulasree, P.O. Govindpur, District-Cuttack  
at present working as Extra-Departmental Branch  
Postmaster of Kulasree Branch Post Office,  
Dist. Cuttack.

...

Applicant.

Versus

1. Union of India, represented by its  
Secretary, in the Department of Posts,  
Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle,  
At/P.O. Bhubaneswar, Dist. Puri.
3. Senior Superintendent of Post Offices,  
Cuttack City Division, Cuttack-753001,  
District-Cuttack.

... Respondents.

For the applicant ... M/s. Deepak Misra,  
A. Deo, Advocates.

For the respondents ... Mr. A. B. Mishra,  
Sr. Standing Counsel (Central)

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)

1. Whether reporters of local papers may be allowed to  
see the judgment ? Yes.
2. To be referred to the Reporters or not ? *N*
3. Whether Their Lordships wish to see the fair copy  
of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to be issued to the respondents to allow the applicant to continue on provisional basis as per terms and conditions in Annexure-4.

2. Shortly stated, the case of the applicant is that one Parsuram Mahapatra was a regular Extra-Departmental Branch Postmaster, in Kulasree Post Office within the district of Cuttack. The said Parsuram Mahapatra was put under proceeding and the said proceeding is still continuing. Due to a contemplated proceeding, Parsuram Mahapatra was put off from duty and in his place vide Annexure-4 the applicant was appointed on provisional basis with a stipulation that he must vacate the Office if Parsuram <sup>Kahapatra</sup> ~~Mahapatra~~ is reinstated. On 23.5.1988 the applicant took charge of the Post Office and to his utter misfortune, the applicant has been orally asked to hand over charge of the Office. Hence, this application with the aforesaid prayer.

3. In their counter, the respondents maintained that under the Rules the Employment Exchange has to sponsor three names for provisional appointment but the Employment Exchange having sponsored only two names, the provisional appointment was illegal and therefore it is sought to be regularised by asking the applicant to vacate the post and to call for the names from the Employment Exchange. It is also maintained that there has been some complaints against the applicant for which he is being asked to vacate the Office. Hence, it is

maintained by the respondents that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. A. B. Mishra, learned Senior Standing Counsel (Central) at some length. The above mentioned facts stated in paragraph 2 were not disputed before us. If an irregularity has been committed by the departmental authorities in not asking the Employment Exchange to sponsor three names, then such irregularity should not be cured by snatching a plate of rice from the applicant. In our opinion, this is not such irregularity which cuts at the root of the matter. As regards the allegation having been received against the applicant, we attach no importance to it because there has been no enquiry to adjudicate the truth or otherwise of the allegation. In such circumstances, we would direct that the applicant should continue in the present post which he is holding till Parsuram Mahapatra is reinstated or regular appointment is made to the post whichever is earlier.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

*By order*  
3/5/89  
.....  
Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN,

*I agree.*

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
May 3, 1989/Sarangi.



*B.R. Patel*  
3.5.89  
.....  
Vice-Chairman