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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 293 of 1990

Date of decision: 27th September, 1991.

Mamikram Mohanta : Applicant

Versus

Union of India and others : Respondents

For the applicant : M/s Devanand Misra,
Deepak Misra,
B.S.Tripathy,
P.P.Panda,
Advocate.

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

C O R A M:

THE HON'BLE MR. K.P. ACHARYA, VICE CHAIRMAN

A N D

THE HON'BLE MR. I.P.GUPTA, MEMBER (ADMINISTRATIVE)

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 His 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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I.P.GUPTA, MEMBER (ADMN.) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant was appointed as an E.D.M.C., Choutia Branch Post Office in account with Keonjhar Sub Office after the superannuation of his father on 26.2.1990. The applicant took over charge as E.D.M.C. on 1.3.1990 and his appointment letter indicated that he was so appointed from 1.3.1990 to 31.5.1990 or till regular appointment was made. However, the applicant continued and his appointment was extended upto 31.7.1990.

2. In the meantime, the Respondents wanted to fillup the post in a regular manner and for that purpose called for names from the Employment Exchange, Champua. The applicant alleges that without following the proper procedure in the matter of recruitment for the purpose of appointment of E.D.M.C. the Respondents are going to complete the process of selection.

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3. The applicant has sought for relief that the entire selection procedure may be declared null and void since the procedure is illegal and arbitrary and he further alleges that due to some vested interest a candidate who does not have the basic qualification is going to be selected.

4. The learned Counsel for the Respondents has argued that a post of E.D.M.C. became vacant due to retirement of its incumbent on 1.3.1990. The appointing Authority of the said post requested the Employment Exchange to nominate candidates for the post of E.D.M.C., Chauthia. The Employment Exchange sponsored names of three candidates and all the candidates were asked to apply for the said post in a prescribed proforma. Out of the three candidates only two candidates applied for the post including the applicant. The applicant has passed Class-VIth standard whereas the other candidate (Respondent No.5) has passed class VIIIth standard. In accordance with the D.G.P. & T, New Delhi letter No. 43-246/77-Per dated 8.3.1978 (Annexure-R/2),

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the candidate who has passed Class-VIII standard should be given preference over those who have passed Class-VII standard. Accordingly, the Respondents selected the candidate who had passed Class-VIII standard. The applicant was less qualified than the other candidate. The selection was finalised on 5.8.1990 and the selected candidate joined the post on 14.8.1990 terminating the provisional appointment of the applicant. The learned counsel for the Respondents has also mentioned that the applicant happens to be the third son of the retired E.D. official and had agreed to work as E.D.M.C. Chauthia Branch Office temporarily till regular selection was made, and he had also duly accepted the condition that his appointment was provisional and was to be terminated when regular appointment was made by signing the letter of appointment with the aforesaid condition. This provisional appointment was extended till the finalisation of the regular selection.

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5. According to the Respondents there is no provision to give appointment to a son of retired employee and therefore no weightage on this ground could be given. The candidate selected was better qualified. No malafide could be proved in the matter of said selection.

6. An interim order was passed on 20.8.1990 to the effect that the selection procedure may be completed but no appointment be made till 3.9.1990. The learned Counsel for the Respondents mentioned that the appointment order was finalised before the issue of the interim order and the selected candidate was appointed on 14.8.1990 and the interim order was passed on 20.8.1990. This fact should have been pointed out by the respondents when the interim order was being continued by the order dated 3.9.1990. ^{7. However,} In the conspectus of the aforesaid facts, we do not see any good reason to interfere with the regular selection made by the respondents and the consequential termination of the provisional appointment of the applicant

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in terms of the appointment letter of the applicant.

8. We would however, like to direct the Respondents to consider sympathetically the case of the applicant against a future vacancy in any other similar post elsewhere ^{to} which he may be eligible and found fit in view of the facts that:

(i) He has worked temporarily from 1.3.1990

to 31.7.1990 and

(ii) only two candidates applied for the post and the applicant was one of them and the other was selected.

9. With the above direction the case is disposed of. The interim order is vacated. There would be no order as to costs.

E. Laxman
..... 27.9.91
VICE CHAIRMAN

J. P. Laxman
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MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty,
27th September, 1991.

