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Date of decision: April 4, 1990.

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Applicant.

Respondents.

Mrs. S.L.Patnaik,
Mr.S.K.Mohanty, Advocates.

Mr. Aswini Kumar Misra
Senior Standing Counsel (CAT)

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C O R A M :

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

A N D

THE HON'BLE 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.

J U D G M E N T

N.SENGUPTA, MEMBER (J) The facts material in this case lie in a short compass.

2. There is no dispute that the applicant was working and is still working as Extra-Departmental Delivery Agent-cum-Mail Carrier of Sulfudi Branch Post Office in the district of Mayurbhanj. It is also undisputed that on the

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promotion of the ex-Extra-Departmental Branch Postmaster as Postman, the post of E.D.B.P.M. fell vacant and the local Employment Exchange was asked to sponsor candidates. The applicant was one of the aspirants for the post of E.D.B.P.M. of Silfudi Branch Post Office. The applicant, under the Rules, was required to file some documents including a certificate of his solvency. The applicant's case is that he obtained the certificate of solvency but he could not inadvertently annex the same to his application or send it by 11.1.1990, the last date fixed for submission of the necessary certificate. Subsequently he sent the certificate to the concerned authorities but the authorities in a hurried manner selected Respondent No.5, Shri Ramahari Kalia for being appointed as E.D.B.P.M., Silfudi Branch Post Office. Making these allegations, the applicant has prayed for declaring the order of section of Respondent No.5 as illegal and to quash the same and a direction to the Respondent No.4 i.e. Superintendent of Post Offices, Mayurbhanj Division to consider his case for appointment as Extra-Departmental Branch Post Master, Silfudi B.P.O.

3. The reply of the respondents is that the applicant was afforded all opportunities to file the necessary documents and furnish the required information by 11.1.1990. As the applicant failed to file evidence of his solvency, his case could not be considered and Respondent No.5 who satisfied all the conditions for being appointed, as ED.BPM, was selected and deputed to undergo the necessary training.

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4. We have heard Mrs. S.L.Patnaik, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents. Mrs. Patnaik has urged that according to the Rules for appointment of E.D. Agents, the applicant was entitled to preference as he had had experience and was in service in the Department. No doubt E.D. Agents appointment Rules, make a provision for giving some preference to persons in service in the Department, ~~but that~~ ^{it} cannot be said that unless the other conditions are satisfied, the Departmental candidate is to be appointed.

5. From Annexure-A/2 it would be found that the Tahasildar granted the solvency certificate on 1.2.1990. Therefore, the solvency certificate could not have been in the possession of the applicant by the last date for submission of the application. Without any evidence of solvency, the respondents could not have appointed ~~the~~ ^{applicant} ~~Respondent No. 5~~ as E.D.B.P.M. Therefore, if the applicant had not given the requisite information about his solvency, it was he who was to be blamed. In the meantime, it is stated by Mr. Misra that Respondent No. 5 has already joined as E.D.B.P.M., Silfudi B.O. In these circumstances, we are unable to grant the applicant the reliefs that he has prayed for. But however, we would observe that in case any vacancy in the post of E.D.B.P.M. occurs in future, the case of the applicant should be considered by the Department.

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6. This application is accordingly disposed of leaving the parties to bear their own costs.

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Vice-Chairman



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Member (Judicial)