

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

Original Application No. 325 of 1990

Date of Decision: 15.7.1992

Prabir Kumar Dey

Applicant

Versus

Union of India & Others Respondents

For the applicant

M/s. P.V. Ramdas
B.K. Panda
D.N. Mohapatra,
Advocates

For the respondents

Mr. A. K. Mishra,
Standing Counsel
(Central)

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C O R A M

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

THE HONOURABLE MR. M. Y. PRIOULKAR, MEMBER (ADMN)

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

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JUDGMENT

R.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the advertisement dated 21.8.1990 contained in Annexure-2 as being not valid and direct the opposite party No.2 to proceed for selection of the Branch Post Master, and confine considerations to Bartana Post Office/considering the applications which have been filed in response to the advertisement dated 15.6.1990.

2. Shortly stated the case of the petitioner is that post of Extra Departmental Branch Post Master, Bartana Post Office in account with Bhograi within the district of Balasore fell vacant. In order to fill up the post OP No.2, i.e. Superintendent of Post Offices, Balasore Division published an advertisement calling for applications from the intending candidates who would like to appear ⁱⁿ the test. The last date prescribed for receipt of such application was fixed to 9.7.1990. Some persons had filed applications in response to the said advertisement. On 21.8.1990 another advertisement was published calling for applications to fill up the said post and the last date of receipt of application was fixed to 12.9.1990. The petitioner has a grievance on this point and hence this application has been filed with the aforesaid prayer.

4. No counter has been filed in this case for the reason best known to the opposite parties but the Court has a duty to find out whether there is a good case made out by the petitioner to succeed. Merely because counter has not been filed with does not entitle to the petitioner

to have an easy walkover. Therefore we have heard Mr.P.V. Ramdas, learned counsel for the petitioner and Mr.A.K.Mishra, learned Standing Counsel appearing for the Postal Department. Mr.P.V.Ramdas submitted that there was no necessity on the part of the Superintendent of Post Offices to make a second advertisement when number of applications were received in response to the first advertisement. May, be, the Superintendent of Post Offices has invited applications on the second occasion with an honest intention, but it is prejudicial to the interest of the petitioner and therefore he had no other option but to approach this Bench to quash this advertisement.

5. On the other hand it was submitted by Mr.A.K.Mishra, learned Standing Counsel that the second advertisement was made by the OP No.2 with the sole intention of having a wider zone or choice for consideration of suitable candidates. Nothing else was argued by Mr.Mishra, because Mr.Ramdas very fairly and rightly did not put forward any grievance against the Superintendent of Post Offices. Mr.Ramdas confined his argument to the prejudicial interest being caused to the petitioner. We have given our anxious consideration to the arguments advanced at the Bar. Since counter has ^{not} been filed in this case it is difficult to know the reasons for which a second advertisement was made, but at the same time we are of opinion that the reason assigned by Mr.Mishra that the Superintendent wanted to have a wider zone or choice for consideration cannot be rejected as ill founded or wrong. That apart, the latest view of the ^{highest} judicial authority is that the consideration should be on wider basis so that the most

suitable candidate could be chosen. Therefore we do not find any illegality to have been committed by the Superintendent of Post Offices in giving a second advertisement. However, we would direct that the applicants in response to the advertisement dated 15.6.1992 and 21.8.1990 be considered along with the present petitioner Shri Prabir Kumar Dey and after suitability is adjudged, appointment be issued in favour of the person who is found to be suitable. We hope and trust that filing of this application by the petitioner should not act against him in any manner whatsoever and should not weigh with the Superintendent. We have no doubt that the selection would be fair. Thus the application is accordingly disposed of. No costs.

[Signature]
MEMBER (ADMINISTRATIVE)

[Signature]
15/7/92
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 15th July 92, BK Sahoo

