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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 417 of 1990

Date of Decision 28.4. 1992

Ajit Kumar Patra

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s.R.B.Mohapatra,
S.C.Mohanty
S.D.Das and
S.K.Samantaray,
Advocates

For the respondents

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

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C O R A M

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

AND

HON'BLE MR.C.S.PANDEY, MEMBER (ADMINISTRATIVE)

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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 ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985 the petitioner prays for directing the opposite parties to permanently appoint the petitioner Shri Ajit Kumar Patra as Extra Departmental Branch Post Master in the Putina Branch Office in account with Kamarda Sub Office under Jaleswar Head Office.

2. Shortly stated the case of the petitioner is that one Shri Sibaprasad Patra was functioning as Extra Departmental Branch Post Master in the Putina Branch Office. Siba was put off from duty on certain allegations having been levelled against him. The present petitioner Shri Ajit Kumar was allowed to function in place of Siba as a temporary measure. Siba was admittedly reinstated to the post in question and consequently the present petitioner Ajit had to vacate the said post. After Siba continued for some time, unfortunately he expired and the post again remained vacant. The petitioner Ajit Kumar was also temporarily appointed against the said post and is continuing. While the matter stood thus the petitioner is apprehending from reliable sources that somebody else is being appointed in his place and the petitioner may be asked to vacate the post in question. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the appointment of Ajit Kumar in two spells were purely on temporary basis and Ajit Kumar has not been denied any civil right to the post in question. In their counter the opposite parties further maintain that the Chief Post Master General has ordered appointment of the Son of Siba Prasad Patra

(Sanjaya Kumar Patra) purely on compassionate ground, and therefore the application being devoid of merit is liable to be dismissed.

4. We have heard Mr. R. B. Mohapatra, learned counsel for the petitioner and Mr. A. K. Mishra, learned Standing Counsel for the opposite parties.

5. The above mentioned facts stated by the petitioner and also by the opposite parties were not disputed before us by the counsel appearing for both sides. The only point on which Mr. Mohapatra emphasised ~~is~~ that the petitioner having served in the said post office since December, 1986 with some breaks, the case of the petitioner should be favourably considered for appointment and preference should not have been given to the son of Siba. On the other hand it was submitted by Mr. A. K. Mishra, learned Standing Counsel that the Chief Post Master General has been following the view propounded by this Bench in several cases relying upon the dictum laid down by **Their** Lordships in the case of Smt. Phoolwati vs. Union of India & others reported in AIR 1991 Supreme Court 469. In Phoolwati's case Their Lordships also relied upon the dictum laid down by Their Lordships in the case of Susama Gowsamy.

6. We ~~doubtfully~~ appreciate the steps taken by the Chief Post Master General in taking a compassionate view over the son of Siba. In the fitness of things the C.P.M.G. was perfectly justified in ordering appointment of the son of Siba on compassionate ground, but at the same time we would commend to the C.P.M.G. that here is a case

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where the petitioner has served since December, 1986 without any blemish in his service career. Because of the compassionate appointment we are unable to interfere with the order passed by the C.P.M.G., but at the same time we cannot lose sight of the fact in these hard days when the people are running from post to pillar to earn their bread and butter, a similar sympathetic attitude should be taken in the case of the present petitioner Ajit Kumar who has made an application to the C.P.M.G. and the Superintendent of Post Offices, Balasore Division submitting that there being a vacancy in Chakeshab Branch Office, the case of the petitioner be considered for appointment. We hope and trust the C.P.M.G. would sympathetically consider the case of the petitioner and do the needful according to law. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

Chandray
MEMBER (ADMINISTRATIVE)
28/4/92

[Signature]
28/4/92
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 28th April 2002/Sambo

