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Central Administrative Tribunal
Cuttack Bench, Cuttack

Original Application No. 466 of 1990

Date of decision: 5th November, 1992

Shri S.M.Sayeed Applicant

Versus

Union of India and others Respondents

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For the Applicant Mr. G.A.R.Dora, Advocate

For the Respondents Mr. R.C.Rath, Standing Counsel
and Mr. B.Pal, Sr. Standing
Counsel.

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CORAM:

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

AND

THE HONOURABLE MR. K.J.RAMAN, MEMBER (ADMN.)

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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.

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JUDGMENT

K.P.ACHARYA, V.C. In this application under Section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the impugned order of reversion contained in Annexure 2 and to restrain the Opposite Parties from passing any order of reversion.

2. Shortly stated the case of the Petitioner is that he was promoted to officiate in Class II Group B post on adhoc basis vide order dated 16th January, 1987 During his incumbency as an adhoc appointee, the Petitioner vide Annexure 2 dated 3rd December, 1990 was reverted to his substantive post of Group 'C'. Being aggrieved by this order this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that under the rules, passing of written test is mandatory. The Petitioner not having turned out successful, no regular appointment ^{cond} to be issued in his favour and consequently the petitioner had to face the order of reversion. ^{To} cut short, it is maintained that there has been no illegality in the impugned order. it should be sustained and the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. G.A.R.Dora learned counsel appearing for the Petitioner, Mr. B.Pal learned Senior Standing Counsel(Railway) and Mr. R.C.Rath learned Addl. Standing Counsel(Railway) appearing for the Opposite Parties.

5. Mr. Dora contended that the petitioner is a very brilliant officer having a very good academic career

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and there is little chance of being unsuccessful in the written examination. The Petitioner seriously apprehends that his answer papers must have been exchanged or some unfair means must have been adopted in order to deprive him of the promotional post which the authorities must have thought to be given to some other person. In order to substantiate his contention Mr. Dora had earlier filed an application to call for the answer papers, they were called and Mr. Pal has filed the same today, alongwith filing of the answer papers, Mr. Dora filed three sheets of papers containing the hand writing of the Petitioner. Though it was stated by Mr. Dora that it is the handwriting of the Petitioner and these sheets of papers was delivered by the Petitioner to Mr. Dora, Mr. Dora has no personal knowledge as to whether the petitioner is the author of these documents. We did not compare the hand writing in the papers filed by Mr. Dora with that of the answer papers filed by Mr. Pal for the aforesaid reason and we refused to come to a conclusion that the hand writing is different because there is every possibility on the part of the Petitioner to ask somebody else to write in the papers filed today (in order to substantiate his case) and this possibility cannot be overruled. Therefore, we do not accept the documents filed by Mr. Dora to be authentic and that it contains the handwriting of the Petitioner and nobody else. In such circumstances, we find no merit in the contention of Mr. Dora that the handwriting in the documents filed by him today is different from the answer papers which have been filed today by Mr. Pal. However, passing of the examination is mandatory. The Petitioner having not been successful in the previous two chances we are of the opinion that rightly he was reverted.

6. In such circumstances, we find no merit in this application which stands dismissed leaving the parties to bear their own costs.

7. The interim order passed on 13th December, 1990 stands automatically vacated. The papers filed by Mr. Pal and Mr. Dora are returned to them.

K. Mohanty

MEMBER (ADMINISTRATIVE)

K. Mohanty
5/11/92

VICE CHAIRMAN

Central Admn. Tribunal
Cuttack Bench, Cuttack
K. Mohanty/5.11.92

