

(71)

Central Administrative Tribunal,
Cuttack Bench, Cuttack

Original application No; 76 of 1990

Date of decision : May 1, 1992

Subash Chandra Mallik

Petitioner

Versus

Union of India and others

Opp. Parties

For the Petitioner

: M/s Devanand Misra,
Deepak Misra,
R.N.Naik,
A.Deo, B.S.Tripathy,
Advocates

For the Opp. Parties

Mr. Aswini Kumar Misra,
Sr.St.Counsel.

CORAM:

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

AND

THE HONOURABLE MR. C.S. PANDEY, 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? ☒
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 challenges the appointment of Opposite Party No.5 as Extra Departmental Delivery Agent Cum-Extra Departmental Mail Carrier in the Branch Post office of Kailipur.

2. On 31st January, 1989 provisional appointment vide Annexure-1 was issued in favour of the petitioner to act as Extra Departmental Mail carrier in the said Post Office and on 11th April, 1989 the Petitioner Joined the Post. Provisional appointment order was issued on condition that such appointment would be in force till the regular candidate is appointed. On 27th September, 1989, the employment exchange sponsored names including that of the Petitioner and Opposite Party No.5 alongwith others. The appointing authority considered the case of all candidates and found Opposite Party No.5 ^{to be} ~~is~~ suitable and issued the order of appointment which is under challenge.

3. We have heard Mr. Deepak Misra learned Counsel appearing for the Petitioner and Mr. Aswini Kumar Misra learned Standing Counsel (Central). Mr. Deepak Misra submitted that under the rules preference has to be given to the scheduled caste candidate and the petitioner being a member of Scheduled Caste community preferential treatment should be ^{to him} ~~given~~ ^{in his favour}. On the other hand Mr. Aswini Kumar Misra submitted that cases of all candidates including the petitioner and Opposite Party No.5 were considered from all angles and the suitability ^{was} ~~were~~ adjudged in favour of the

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Opposite Party No.5 which should not be disturbed. While adjudicating the suitability, the competent authority is not only required to give a preferential treatment to the members of the SC community but also the suitability has to be consider ^{ed} ~~the cases~~ of all candidates from all angles. Where a members of the Scheduled Caste ^{Community} ~~candidate~~ comes in par with a general candidates regarding his suitability, in such case, preference should be given to the SC candidate. ^{This} ~~There~~ has been ^{the} ~~a~~ intentional ~~a~~ of the rules making authority while ~~he~~ ^{while providing that} ~~considering the case~~, preference should be given to a member of the SC candidate. Here is a case, ^{where} ~~the~~ Supdt. of Post Offices has considered the suitability of all candidates and since ~~the~~ Petitioner did not come in par with any other candidate ^{in all respects} regarding his suitability, no preferential treatment was given to ~~the~~ petitioner. Hence the competent authority has committed no illegality in the matter. Therefore, interference on the part of the court is not warranted. We find no merit in this case which stands dismissed. No costs.

4. Mr. Deepak Misra lastly contended that in future whenever any vacancy arises, the case of the petitioner should be considered for appointment. We have nothing to say in the matter. It is for the competent authority to consider.

K. Mohanty
MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty
1.5.92



K. Mohanty
11/5/92
VICE CHAIRMAN