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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 87 OF 1990.

Date of decision : May, 24 1990

Shri Gopal Chandra Samantray, S/o. Late Krushna Mohan Samantaray, resident of Patrasahi, P.O.: Puri-752001 Dist. Puri at present working as Overseer(Cash) in the Head Post Office, Puri.

.... Applicant

-Versus-

1. Union of India represented by the Director General(Posts) India, Bak Bhawan, New Delhi.
2. Post Master General, Orissa Circle, At/PO: Bhubaneswar-1, Dist: Puri.
3. Senior Superintendent of Post Offices, Puri Postal Division, At/PO: Puri, Dist: Puri.

.... Respondents.

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For the Applicant : Mr. Pradipta Mohanty, Advocate
For the Respondents : Mr. Aswini Kumar Mishra, Senior Standing Counsel(CAT).

C O R A M:

THE HON'BLE MR. R. BALASUBRAMANIAN, MEMBER (ADMN.)

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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.

JUDGMENT

N. SENGUPTA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, the applicant has asked for quashing the order at Annexure-5 i.e. the order posting him as Selection Grade Postman at Puri.

2. Most of the facts relating to their case are undisputed and they may be set out at the beginning. The applicant was appointed to Gr.'D' in the Postal Department and in due course was promoted as Postman and then to the combined cadre of Overseer Mails/Cash, Reader Postman, Head Postman and Sorting Postman in the year 1981; he was posted after the promotion, as Cash Overseer at Puri. This promotion was approved in September, 1983. In December, 1987 there was a reorganisation of the staffing pattern of Postal Sub-Divisions. The Committee which examined the staffing pattern was of the view that there was no need to have a cadre of Mail Overseers, but the D.G. Posts was of the view that the Posts should not be abolished altogether, but each of the S.D.I.(P), other than those who jurisdiction is confined to urban areas, may have two Mails Overseers in their offices. By this reorganisation some Mail Overseer would become surplus. The D.G. Posts by his circular letter 28-30/87 dated 10.12.1987 directed:

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 " 2. It should however be ensured that this reorganisation does not lead to demotions a (or) retrenchments in the combined cadre of Postman/ selection grade Postman. The resultant surplus

Mail Overseers/Postmen will be adjusted against future vacancies in the combined cadre of Postman/ Selection Grade Postmen".

After that circular letter of D.G.Posts, from the Office of the Post Master General Orissa on 11.1.1988 Annexure-4 was issued the relevant part of which is

" 2. The Officials who have been approved for the Overseer Cadres, but not appointed as such may be ordered to continue in Postman Cadre but those who have already been posted should not be reverted either temporarily or permanently. They may be absorbed in the same Cadre Post".

On 5.3.1990, respondent No.3, who is the appointing authority, passed the impugned order posting the applicant as S.G. Postman Puri.

3. The case of the applicant is that the impugned order being contrary to the directions of the Post Master General, Orissa Circle, is invalid and without jurisdiction and further that as some juniors to him(the applicant) have been retained in the cadre of overseers, he should not have been reverted to cadre of S.G.Postman.

4. The case of the respondents is that after reorganisation according to the circular letter of D.G. Posts dated 10.12.1987, 13 posts of overseers had to be declared surplus and for that the applicant, in order of his seniority in the cadre of overseers, had to be posted as S.G. Postman, though there has been a change in the cadre, there has been no pecuniary loss to the applicant in as much

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the scales of pay of S.G. Postman and that of Overseers are identical.

5. We have heard Mr. Pradipta Mohanty for the applicant and Mr. A.K.Misra, Senior Standing Counsel(C.A.T.) for the respondents. During the hearing the applicant produced one gradation list and the respondents another, there is some difference as regards the position of the applicant but it has come to be admitted that no person junior to the applicant in the cadre of Overseers has been retained, so it is not necessary for us to find exactly what position, in order of seniority the applicant occupies in that cadre.

6. Mr. Mohanty for the applicant has vehemently contended that as the appointment of the applicant, by promotion, in the cadre of Overseers was duly approved, he could not be reverted without a proceeding. The case of the respondents is that the approval was only provisional (vide Annexure-R-2) but for the present we would assure that the approval was final and not merely provisional. It is true that a person appointed to ^a post has a right to hold the post and can be removed or reverted only after an appropriate disciplinary proceeding, but the right would be there only so long as the post continues to exist (See A.I.R. 1958 S.C. 36). There has been no dispute that by the reorganisation of the cadre, some posts of Mail Overseers were abolished and that Mail Overseers belong to the combined cadre of Mail/Cash Overseers, Head Postmen etc.,

*Mr. Sengupta
23/7/90*

therefore, on the shrinking of the cadre strength some retrenchment was to be done by applying the principle of " last come first go". Since none of the juniors to the applicant has been retained in cadre of Overseers, the applicant can not have any grievance.

7. It has been urged on behalf of the applicant that the impugned order violates the directions of the Post Master General, Orissa Circle as Annexure-4 and as such has to be quashed. As may be gathered on reading para 1 of the letter Annexure-4, the Post Master General entertained some doubt as to whether according to the directions of the D.G. Posts in Annexure-2, some superfluous Posts were to be sanctioned, though it has to be stated that in fact there was no cause to have such a doubt. When some posts in the combined cadre of Overseers etc were abolished, some persons in that cadre were bound to be declared surplus and the junior most persons were to be reverted to the feeder cadre of Postmen and S.G. Postmen. By this process, the result would be that there would be more persons in the cadre of Postmen and in ordinary course the junior most were to be retrenched. The D.G. by his order in December, 1987 directed not to retrench any person from the cadre of Postmen and to adjust the surplus against future vacancies in that cadre. In this connection it would be pertinent to refer to Annexure-R-4 dated 10.8.1989 from

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the office of Respondent No.1 . In that letter it was specifically stated "Juniormost officials should have been declared surplus and posted as Selection grade Postman". This letter would show that respondent No.3 was given directions by respondent No.2 to post the surplus overseers as Selection grade Postmen, hence the contention that Annexure-5 violates the directions of R-2 is untenable.

8. In view of what has been stated above, the posting of the applicant as Selection Grade Postman cannot be quashed. There shall be no order as to costs.

Kishanraman

..... 22/5/90
MEMBER (ADMINISTRATIVE)

Alka Exptd
..... 23.5.90
MEMBER (JUDICIAL)

