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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.169 of 1991.

Date of decision : June 18, 1993.

Suraj Kumar Tiwari ...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ...

M/s. R.Ch. Mohanty,
R.K. Mohanty,
N. Behuria,
Advocates.

For the respondents ...

Mr. Aswini Kumar Misra,
Sr. Standing Counsel
(CAT)

C O R A M:

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

A N D

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN).

...

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

...

J U D G M E N T

K.P.ACHARYA, V.C.,

In this application under section 19 of the Administrative Tribunals Act, 1985, the order passed by the competent authority directing the applicant to hand over charge of H. Katapali Branch Post Office is under challenge.

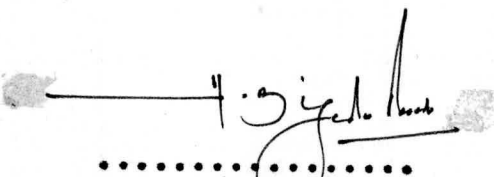
2. Shortly stated, the case of the applicant is that he had been provisionally appointed to act as the Extra-Departmental Branch Post Master of the said Post Office. During the process adopted for regular selection, one Lochan Bhoi was found to be the most suitable candidate and hence he has been appointed and consequently the applicant was asked to vacate.

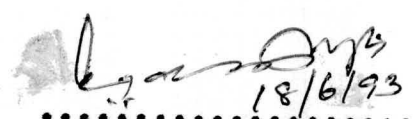
3. According to the Respondents the case being devoid of merit is liable to be dismissed.

4. There was no appearance from the side of the applicant. We have perused the pleadings of the parties and the relevant documents with the assistance of Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) and we have heard him at some length. Undisputedly the applicant was a provisional appointee. In the regular selection the said Lochan Bhoi has been adjudged to be the suitable candidate. In these circumstances we cannot interfere especially when there is no case of malafide pleaded in the pleadings. That apart, the applicant had filed a representation

on 23.5.1991 before the Superintendent of Post

Offices, Sambalpur Division making out a grievance for his non-appointment. Within a week therefrom that is on 4.6.1991 this application has been filed. Therefore, the applicant has not exhausted other remedies available to him and hence the case is also not maintainable under section 20 of the Administrative Tribunals Act, 1985. We are of opinion the case is completely devoid of merit and therefore stands dismissed. No costs.


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MEMBER (ADMIN.) 18 JUN 93 .


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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
June 18, 1993/Saranghi.





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No.169 of 1991.

Date of Decision: September 8, 1993.

Suraj Kumar Tiwari

Applicant(s)

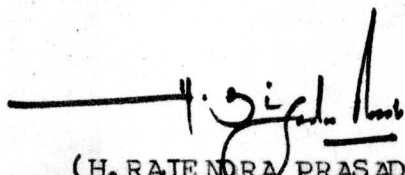
Versus

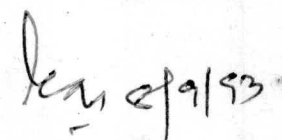
Union of India and others.

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)
08 SEP 93


(K.P. ACHARYA)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 169 of 1991.

Date of Decision: September 8, 1993.

Suraj Kumar Tiwari

Applicant(s)

Versus

Union of India and others. Respondent(s)

For the applicant:

M/s. G.K. Misra,
G. Misra,
K. Swain, B.K. Raj,
B.N. Patra, M. Bisoi, Advocates.

For the respondents:

Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

C O R A M:

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

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

K.P. ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant challenges the appointment of Respondent No. 4, Lochan Bhoi as Extra-Departmental Branch Post Master of H. Katapali Branch Post Office.

2. The applicant, Shri Suraj Kumar Tiwari was appointed on provisional basis as Extra-Departmental Branch Post Master of H. Katapali Branch Post Office and the Overseer, Mails was directed by the Sub-Divisional Inspector (Postal) to hand over



charge to the applicant, Shri Tiwari. While the applicant, Shri Tiwari was functioning as such, candidature of several persons including that of the applicant and the Respondent No.4, Lochan Bhoi was considered and ultimately Lochan Bhoi was found to be suitable and the applicant vide Annexure-4 dated 31.5.1991 was asked to hand over charge to Lochan Bhoi immediately. This order is under challenge.

3. In their counter, the respondents maintained that the cases of all the candidates including that of the applicant and Lochan Bhoi were duly considered and Lochan Bhoi having been found to be suitable has been appointed to act as Extra-Departmental Branch Post Master of H.Katapali Branch Post Office. Furthermore, it is maintained that the applicant was not found to be suitable because his income certificate was not pertaining to his income from his own property but income from his father's property. Therefore, rightly, he was held to be unsuitable and as such the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.G.K.Misra, learned counsel for the applicant and Mr.Aswini Kumar Misra, learned Senior Standing Counsel(CAT) for the respondents.

5. Before we express our opinion on the merits of the case it is worthwhile to mention that this case was originally disposed of by judgment dated 18.6.1993. Consequently, a review application was filed which formed subject matter of Review Application No.19 of 1993. This review application was withdrawn with



permission to the applicant to file a miscellaneous application for setting aside the judgment. Accordingly, Misc.application No.504 of 1993 was heard by us and it stood allowed and in these circumstances, this case has been reheard.

6. Mr.G.K.Misra, learned counsel for the applicant submitted that the authorities have no right to adjudge Lochan Bhoi as suitable and ask him to take over charge of the Post Office without a termination order having been issued against the applicant. It is worthwhile to notice the contents of Annexure-4. Therein, it is stated that Lochan Bhoi has been selected and direction has been given for his appointment observing the usual formalities. Copy of this letter has been forwarded to the Branch Post Master, H.Katapali Branch Post Office, namely the present applicant asking him to hand over charge of the Post Office. In such a situation we cannot conceive as to how the services of the applicant have not been terminated. It is deemed to have been terminated in view of the fact that the applicant had been provisionally appointed to the said post. Hence, we find no merit in the aforesaid contention of Mr.G.K.Misra.

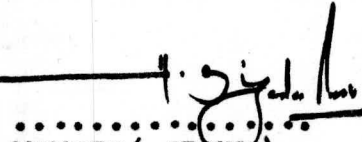
7. It was next contended by Mr.G.K.Misra, learned counsel for the applicant that ⁱⁿ under the guidelines issued by the departmental authorities experience of the applicant should have been considered by the authorities and such experience not having been considered by the authorities, the selection should be




held to be void. The guidelines placed before us are only directory and not mandatory. It was not the case of the applicant that his experience was not at all considered. This fact was never mentioned in the pleadings of the application and therefore, the respondents rightly had no opportunity to meet this type of case put forward by the applicant. We therefore find no merit in the aforesaid contention of Mr.G.K.Misra.

8. Nothing else was submitted by learned counsel for the applicant for adjudicating this case.

Thus, this application stands dismissed leaving the parties to bear their own costs.


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MEMBER (ADMIN.)

08 SEP 93


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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
September 8, 1993/Saranghi.

