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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 351 of 1991

Date of Decision: 21.7.1993


Dilip Kumar Sharma Applicant(s)

Versus


Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

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


MEMBER (ADMINISTRATIVE)

21 JUL 93


VICE-CHAIRMAN

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(10)

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Dilip Kumar Sharma Applicant

VERSUS

Union of India & Others Respondents

For the applicant

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

For the respondents:

Mr.A.K.Misra,
Standing Counsel
Central Government

...

C O R A M:

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

AND

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

...

(11)

JUDGMENT

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MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to be issued to the opposite parties to give a regular posting to the petitioner as Extra Departmental Branch Post Master in Sirilo Branch Post Office or any nearby post office.

2. Short of unnecessary details, succinctly it may be stated that the petitioner had worked as a substitute in regard to the post of E.D.B.P.M. in Sirilo Branch Post Office from 16.2.1991 and continued till September, 1991. He, therefore prays for regularisation of his service dispensing with the application of rules in force to adjudicate the suitability of different candidates.

3. In their counter the opposite parties maintain that in case the petitioner is regularly absorbed, then, there would be a flood gate ~~opened~~ for many people of the like nature to get appointments even they are ^{not} suitable for the post in question. Therefore, in no circumstances the application should be allowed - rather it should be dismissed.

4. We have heard Mr. Deepak Mishra, learned counsel for the petitioner and Mr. Aswini Kumar Mishra, learned Standing Counsel. Mr. Deepak Mishra relied upon a judgment of the Full Bench passed in Original Application No. 315 of 1990 disposed of on 23.9.1991. Similar question came up for consideration by the Full Bench as to whether a substitute should be automatically regularised. This case was referred to a Larger Bench by the Division Bench of this Tribunal. The Postmaster General of West Bengal had issued a circular as a one time benefit conferred on certain substitutes to be regularised,

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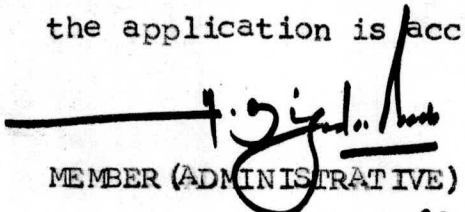
dispensing with the formalities of adjudicating any suitability. This benefit was given for a particular period and therefore, the majority view of the Full Bench was that the circular issued by the Postmaster General, West Bengal should be made applicable to the state of Orissa. This view was respectfully differed by one of the Members constituting the Full Bench, viz. one of us Acharya (J). Apart from the reasons, ~~minority view~~ expressed by the said Member, the majority view has also come to the following conclusions:


" We, however, make it clear that nominees/ substitutes are entitled to be considered for appointment as E.D. Agents, when the Department takes steps for such appointment".

At the cost of repetition we may say that the Postmaster General, West Bengal had issued the circular giving one time benefit to the employees of the West Bengal. Even though the Minority view was that such circular has no application to the State of Orissa, yet, we are bound by the Majority view, which laid down that such benefit should be given to the substitutes in the State of Orissa. But, nowhere, the Majority Members have expressed ^{the view} that it would be a permanent benefit given to such substitutes. On the contrary, the Majority view was that this is a one time benefit given by the Postmaster General, West Bengal to the substitutes. Therefore ~~the~~ such onetime benefit having lost its force now, we are of ^{further} opinion that the Majority view has no application to the peculiar facts and circumstances of the present case.

5. After giving our anxious consideration to the argument advanced at the Bar, we would direct that the case of the petitioner be considered along with other candidates,

and after adjudicating the suitability of all the candidates, he/she, whosoever is found to be fit, appointment order be issued in his/her favour. We hope and trust the experience gained by the petitioner will be given due weightage. Thus the application is accordingly disposed of. No cost.


MEMBER (ADMINISTRATIVE)
21.7.93


VICE-CHAIRMAN
21.7.93

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 21.7.1993/B.K.Sahoo

