

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 437 of 1991.

Date of decision : April 21, 1992.

J. Ramesh Chandra Prusty ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... Mr. R. N. Naik, Advocate.

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. 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 ? *Mr.*
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

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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 applicant prays for a direction to Respondent No. 4 not to terminate the services of the applicant as Extra-Departmental Branch Post Master of Pangidi Branch Post Office.

2. Shortly stated, the case of the applicant is that at present the applicant is working as Extra-Departmental Branch Post Master of Pangidi Branch Post Office under Respondent No. 4. The Superintendent of Post Offices, Aska Sub-Division, Respondent No. 4 requested the Employment Exchange to sponsor certain names to fill up the post of Extra-Departmental Branch Post Master, Pangidi Branch Post Office on regular basis and the Employment Exchange sponsored the names of candidates which was received on the 31st day from the date of receipt of the requisition to the

Employment Exchange. For some reason or the other Respondent No.4 called for applications from the open market and there were some applicants including the present applicant. The cases of all the candidates including those who had been sponsored by the Employment Exchange and those who had applied from the open market including the applicant were considered and the applicant having been found suitable by the competent authority, he was appointed to the post in question and the applicant joined the post on 11.7.1991. One Gokulananda Moharana, who had been sponsored by the Employment Exchange filed an application challenging the action of Respondent No.4 in calling for applications from the open market on the ground that the selection should have been confined to the candidates who had been sponsored by the Employment Exchange. The Post Master General vide his letter No. ST/13-1-Aska/91 dated 12.11.1991 directed the Superintendent of Post Offices, Aska Sub-Division to conduct a fresh selection. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the appointing authority committed an illegality to the extent of inviting applications from the open market without giving a finding that the candidates sponsored by the Employment Exchange were unsuitable. Without exhausting the said procedure the Superintendent of Post Offices acted illegally by considering the cases of all the candidates including those who had been sponsored by the Employment Exchange and those who had applied from the open market and therefore, the Post Master General cancelled the order of appointment

issued in favour of the applicant and directed fresh selection. There being no illegality committed by the Post Master General in his order, the application filed by the applicant should be dismissed.

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

5. The fact of proposed cancellation of the appointment of the applicant was not disputed before us. On the basis of the averments finding place in the counter, Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) urged that the action of the Superintendent of Post Offices was illegal as in view of the directions given by the Director General, Posts that after the candidates sponsored by the Employment Exchange are found to be unsuitable, the authorities should have then called for applications from the open market. Not having done so, the Post Master General was perfectly justified in passing the order for reselection. On the other hand it was argued by Mr. R. N. Naik, learned counsel for the applicant that the choice of the competent authority becomes wider to have suitable candidates once he considers the cases of all the candidates including those who had been sponsored by the Employment Exchange and those who had applied from open market. On this count, the appointment of the applicant should not be cancelled. In support of his contention Mr. Naik relied upon a judgment of the Calcutta Bench of the Central Administrative Tribunal, reported in ATR 1992 (1) CAT 168 (Hari Sankar Singh vrs. Union of India and others). In the said case, the Hon'ble

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Judges relied upon the observations of Their Lordships of the Supreme Court in the case of Union of India and others vrs. N.Hargopal and others reported in AIR 1987 SC 1227. In paragraph 6 of the judgment Their Lordships observed as follows:

" It is, therefore, clear that the object of the Act is not to restrict, but to enlarge the field of choice so that the employer may choose the best and the most efficient and provide an opportunity to the worker to have his claim for appointment considered without the worker having to knock at every door for employment. We are, therefore, firmly of the view that the Act does not oblige any employer to employ those persons only who have been sponsored by the employment exchanges. "

In the case of Hari Sankar Singh vrs. Union of India and others, reported in ATR 1992(1) CAT 168, Central Administrative Tribunal, Calcutta Bench followed the dictum laid down by Their Lordships of the Supreme Court and we are bound to follow the dictum laid down by Their Lordships of the Supreme Court. The observations made by the Hon'ble Supreme Court apply mutatis mutandis to the facts of the present case. We find no illegality to have been committed by the appointing authority in calling for applications from the open market because the appointing authority would have a wider choice to select the suitable and efficient candidate. Having found that no illegality has been committed by the appointing authority, the order of the Post Master General to hold fresh selection is hereby quashed and the appointment of the applicant, Shri J.Ramesh Chandra Prusty is hereby confirmed and maintained.

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

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 MEMBER (ADMINISTRATIVE)
 21.4.92

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 VICE-CHAIRMAN

Central Administrative Tribunal,
 Cuttack Bench, Cuttack.
 April 21, 1992/Sarangi.



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 21.4.92