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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

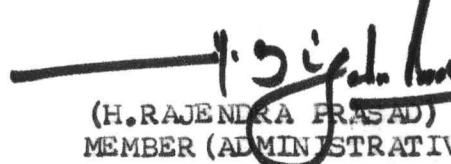
Original Application No. 477 of 1991

Date of decision: August 23, 1993

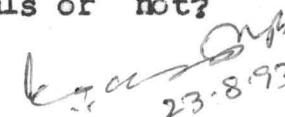
Shri Gangadhar Pradhan ... Applicant
Vs.
Union of India & Others ... Respondents

(For Instructions)

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

23 Aug 93


23.8.93
(K.P. ACHARYA)
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.477 of 1991

Date of decision: 23rd August, 93

Shri Gangadhar Pradhan ... Applicant

-Versus-

Union of India & Others ... Respondents

For the Applicant ... M/s. Devanand Misra,
Deepak Misra,
R.N.Naik, A.Deo,
B.S.Tripathy,
P.Panda, Advocates

For the Respondents ... Mr. Aswini Kumar Misra,
Senior 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.)

JUDGMENT

K.P.ACHARYA, V.C.

In this application under section 19 of the
Administrative Tribunals Act, 1985, the petitioner
prays to quash the selection of Opposite Party No.4
who has been appointed as Extra Departmental Branch
Post Master of Davar Branch Post Office within
Bhubaneswar.

KN.

2. Shortly stated the case of the petitioner is that he was an applicant alongwith Opposite Party No.4 and others for the post of Extra Departmental Branch Post Master. Cases of all the candidates was considered. Opposite Party No.4 was found to be suitable and appointed. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the petitioner has filed an Income Certificate which was not genuine and therefore, rightly his candidature was rejected and Opposite Party No.4 was found to be suitable and therefore rightly he was appointed which should not be quashed-rather it should be sustained. In a crux it is maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. B. S. Tripathy learned counsel appearing for the Petitioner and Mr. Aswini Kumar Misra learned Senior Standing Counsel (CAT).

5. Besides the bald statement made in the counter, that the petitioner had come up with an Income Certificate, which was not genuine, no further explanation was given in the counter regarding the various grounds of nongenuineness. In our opinion, it was incumbent for the Departmental Authorities to give a vivid picture on the basis of which such a conclusion was arrived at by the Opposite Parties.

Only a bald assertion can never convince us that the Petitioner had filed an Income Certificate which was not genuine because we presumed that such certificate to have been granted by the Tahasildar who has been designated as a Collector under the Estate Abolition Act. Therefore, there must be sufficient reason given in the counter while such a certificate is being challenged.

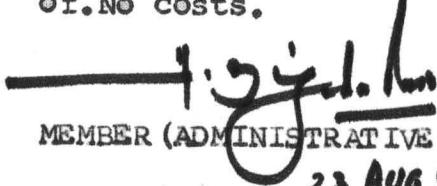
Therefore, we are not prepared to act on this bald assertion made by the Opposite Parties. In view of such a situation, we cannot over rule the contention of Mr. Tripathy learned counsel appearing for the Petitioner that the petitioner cannot be held to guilty of coming with an unclean hand.

Therefore, we would hereby quash the appointment of Opposite Party No. 4 and we would direct that a reselection process to be conducted for which the case of the petitioner, O.P. No. 4 and other applicants whose case had been considered at the relevant time be re-considered and whoever is found to be suitable order of appointment be issued in his/ her favour. It was told to us by Mr. B.S. Tripathy learned counsel that the petitioner is a physically handicapped person. We do not know if there is any quota prescribed for the physically

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handicapped persons, even though in the counter it is stated that there is no such quota prescribed for such handicapped person. In case there is any instruction to give weightage to physically handicapped persons, the same may be given to the petitioner otherwise not. Further we would direct the selection process to be completed within sixty days from the date of receipt of a copy of the judgment. Till finalisation of the re-selection process Opposite Party No. 4 be allowed to continue as Extra Department Branch Post Master of the said Post office.

6. Thus, the application is accordingly disposed of. No costs.



MEMBER (ADMINISTRATIVE)

23 AUG 93


23.8.92
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty/
23.8-1993.