

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 39 of 1991.

Date of decision : January 21, 1993.

Balakrushna Sahoo ... Applicant.

Versus

Union of India and 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,  
1 to 4 Sr.Standing Counsel (CAT)

For the respondent No.5. M/s.Digambar Satpathy,  
Sukant Kr.Chhotray, Advocates.

C O R A M:

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

A N D

THE HONOURABLE MR.S.R.ADIGE, MEMBER (ADMN.)

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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.



J U D G M E N T

K.P.ACHARYA, V.C.,

In this application under section 19 of the Administrative Tribunal Act, 1985, the applicant prays for a direction to be issued to the respondents to allow the applicant to continue as per the order of appointment and further issue a direction quashing the order of appointment contained in Annexure-4 issued in favour of Respondent No.5.

2. Shortly stated, the case of the applicant is that he was appointed as an Extra-Departmental Delivery Agent in Dardwan Branch Post Office on provisional basis on condition that he would continue in the said post from 1.11.1990 till 30.4.1991 or till the regular appointment is made whichever period is shorter. Sometime later i.e. on 19.2.1991 vide Annexure-4 an appointment order was issued in favour of Respondent No.5 i.e. Kalandi Charan Sethi thereby terminating the services of the applicant. Hence, this application with the afo-resaid prayer.

3. In their counter, the respondents maintained that since there was some irregularity in the matter of appointment to the post of Extra-Departmental Delivery Agent, Dardwan Post Office by not considering the case of the Respondent No.5 who is a member of the Scheduled Caste community, appointment of the applicant was terminated and Respondent No.5 was appointed. Hence, no illegality having been committed by the competent authority the case is devoid of merit and is liable to be dismissed.

4. We have heard Mr. R.N. Naik, learned counsel for the applicant, Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents 1 to 4 and Mr. Digambar



Satpathy, learned counsel for Respondent No.5 at a considerable length. Mr. Naik argued with vehemence that once the terms and conditions of the order of appointment state that the applicant would serve for a particular period or till the regular appointment is made (whichever period is shorter), there was absolutely no justification on the part of the concerned authority to terminate the services of the applicant and appoint Respondent No.5. On the other hand, Mr. Digambar Satpathy, learned counsel for the respondent No.5 submitted that Annexure-3 would indicate that the concerned authority reserved the right to terminate the services of the applicant at any point of time without giving any notice or without assigning any reasons and therefore, the termination order is legal, justifiable and binding. Mr. Aswini Kumar Misra, also contended that as certain certificates were not given by the respondent No.5, his case was not considered which was irregular and after the certificates were given the case of the Respondent No.5 was duly considered and since preference was to be given to a candidate belonging to Scheduled Caste community the concerned authority rightly terminated the services of the applicant and appointed Respondent No.5. We have given our anxious consideration to the arguments advanced at the Bar. Though we find there is substantial force in the contention of Mr. Naik, yet we express no opinion regarding giving preference to a candidate belonging to Scheduled Caste community but preference could not have been given to a candidate belonging to Scheduled Caste community after appointment order has been issued in favour of a particular person and because the scheduled caste candidate had not complied with the requirements



he was kept out of consideration and this irregularity by Respondent No.5 cannot be waived at a subsequent stage because of sympathetic attitude of the concerned authority which we do not appreciate. However, by virtue of the stay order the applicant has been continuing. In the peculiar facts and circumstances of the case, we would direct that the selection process must be completed within 60(sixty) days from the date of receipt of a copy of this judgment. The cases of all candidates including the applicant, Balakrushna Sahoo and Respondent No.5, Kalandi Charan Sethi shall be considered by the competent authority and he whoever is found to be suitable shall be appointed. For the intervening period we would direct the Overseer Mails would take over charge of the Post Office from the applicant. Neither the applicant nor Respondent No.5 would continue in the said post Office till regular selection is made. The applicant, Balakrushna Sahoo would hand over charge of the Post Office within 7(seven) days from the date of receipt of a copy of this judgment and as such the stay order would stand automatically vacated.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

*Sarangi* 21.1.93  
.....  
MEMBER (ADMN.)

*Singh* 21.1.93  
.....  
VICE-CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
January 21, 1993/Sarangi.

