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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: C U T T A C K.

Original Application No. 488 of 1991

Date of decision: July 9, 1993

Shri Pabitra Bagarty ... Applicant

-Versus

Union of India and others ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be circulated to the reporters or not? *NO*
2. Whether it be circulated to the Benches of the
Central Administrative Tribunals or not? *NO*


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

9.7.93.


(K.P. ACHARYA)
VICE-CHAIRMAN

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CUTTACK BENCH: CUTTACK

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For the Applicant : Mr. Pradipta Mohanty, Advocate.

For the Respondents : Mr. Aswini Kumar Misra,
Standing Counsel (Central).

C O R A M:

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

A N D

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

J U D G M E N T

K.P. ACHARYA, V.C.

The petitioner's services has been terminated from the Post of Extra Departmental Mail Carrier Bharsuja Branch Post Office within the District of Bolangir. The petitioner was regularly appointed on 1.5.1989 and his services has been terminated with effect from 14th October, 1991 because of non-compliance of certain mandatory provisions contained under the rules, namely the appointing

authority had given a requisition to the Employment Exchange that candidates having qualified ⁱⁿ of Class VIII should be sponsored whereas such higher qualification is not necessary for the post of Extra Departmental Mail Carrier. The next ground on which the cancellation of appointment of the petitioner has been ordered is that the requisition authority did not send the required proforma to the candidates. Hence this application has been filed with a prayer to quash the termination order.

2. In their counter, the Opposite Parties maintained that rightly the services of the petitioner has been terminated by the opposite parties because of noncompliance of the rules in force and therefore, the termination order should not be unsettled-rather it should be sustained.

3. We have heard Mr. Pradipta Mohanty learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra learned Standing Counsel (Central) for the Opposite Parties. Mr. Mohanty learned counsel for the petitioner submitted that for no fault on the part of the petitioner, his services has been terminated. If any irregularity has been committed by the appointing authority, for such action on the part of the concerned authority, the petitioner should not be punished.

On the other hand Mr. Aswini Kumar Misra,
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learned Standing counsel (Central) submitted that whoever might have committed any irregularity or illegality but if such irregularity or illegality has been detected latter on, the entire selection process becomes abinitio and void.

4. We have given our anxious consideration to the arguments advanced at the Bar. Since the appointing authority had sent requisition to the Employment Exchange with a stipulation that the minimum qualification was Class VIII which was not required for the post of EDMC, the candidates having lesser academic qualification and desirous of applying for the post have been deprived from being considered. That apart the required proforma was to be filled by the candidates which has not been done owing to lacuna on the part of the concerned authority. All the same rules have to be complied with. Therefore, rightly the Postmaster General had ordered for cancellation of the appointment of the petitioner.

5. While admitting this application it had been ordered that the prayer for issuance of interim order stands dismissed subject to the condition that the result of this application would govern the future benefits of the petitioner. While upholding the order of termination we would direct that a fresh selection process be conducted and according to rules application be called from the intending candidates both from open market and from the employment exchange and

cases of the petitioners alongwith others be considered on merit and after adjudicating the suitability of different incumbents, he/she who ever is found to be suitable may be appointed. The experience gained by the petitioner should also be taken into consideration.

6. We hope and trust the entire selection process would be completed within 90 days from the date of receipt of a copy of the judgment.

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

MEMBER (ADMINISTRATIVE)

9.7.93.

VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack/K. Mohanty/
9.7.93.

