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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No.529 of 1991.

DATE OF DECISION: AUGUST 13, 1993.

Bankanidhi Giri

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Applicant.


Versus

Union of India and others ...

Respondents.

(FOR INSTRUCTIONS)

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


(H. RAJENDRA PRASAD)
MEMBER (ADMN.) 13 AUG 93


(K. P. ACHARYA)
VICE-CHAIRMAN. 13.8.93

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

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Date of decision : August 13, 1993.

Bankanidhi Giri ... Applicant.

Versus

Union of India and others ... Respondents.

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

For the respondents ... Mr.Swini Kumar Misra.
1 to 5 Sr. Standing Counsel (CAT)

For the respondent 6 ... M/s.L.Mohapatra,
S.C.Mohanty,
M.R.Mohanty-2.Advocates.

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., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the selection and appointment of Respondent No.6 in the post of Extra-Departmental Branch Post Master, Kusunpur Branch Office and direct the respondents to appoint the applicant in the said post or in the alternative to direct the respondents to provide the applicant with any Extra-Departmental Agent posts.

2. Shortly stated, the case of the applicant is that

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he was initially appointed as Extra-Departmental Branch Post Master of Mukundapur Patna Branch Post Office on 4.8.1986. His services were terminated on 7.10.1988 as one Purna Chandra Sethi was selected and appointed on regular basis. The present applicant challenged the appointment of Purna Chandra Sethi which formed subject matter of O.A. 396 of 1988. The said original application was dismissed but it was observed by the Bench that since the applicant has worked for more than two years his absorption in any other posts should be considered. According to the applicant, one Branch Post Office was opened on 30.4.1991 namely Kusunpur Branch Post Office. The applicant filed an application before the Respondent No.4 to consider his case for appointment in the said Post Office. Respondent No.4 vide his letter contained in Annexure-1 asked the applicant whether he could provide a suitable rent-free accommodation in Kusunpur and whether he could stay in the said village. While the applicant and Respondent No.4 were having correspondence a public advertisement was issued inviting applications from intending candidates to fill up the post in question. The applicant preferred a representation to the Respondent No.3 to take into account the judgment of this Tribunal. The applicant had also offered the house of one Adwaita Prasad Rout which was not

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accepted to be convenient. The applicant then offered the house of one Radhashyam Rout, Baghasingh Munda and also Jugasingh Munda. Without considering those offers the applicant was informed that it was not possible to entertain the application of the applicant. This is contained in Annexure-4 and ultimately Respondent No.4 selected Respondent No.6 as Extra-Departmental Branch Post Master of Kusunpur Branch Post Office. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents 1 to 5 maintained that in response to the communication made by the concerned authority the applicant offered the house of Baghsingh Munda and Adwaita Kumar Rout by giving consent letters. Later Baghsingh Munda informed the Superintendent of Post Offices, Keonjhar rescinding his offer. Further, ^{regarding} the accommodation offered by Adwaita Kumar Rout, the Sub-Divisional Inspector (Postal), Ghatgaon was asked to enquire and report who reported that the house was not situated in village Kusunpur and it was situated at a distance of 100 yards from another Post Office namely, Rajabandha and the said house was at a distance of 4 K.Ms. from the Kusunpur Post Office which would be inconvenient to the villagers of Kusunpur as intimated by the Sarapanch, Upardiha Gram-panchayat. Hence, the applicant not being the resident of post-village, and no suitable accommodation having been provided by the applicant, his candidature was rejected. Furthermore, it is maintained that the case

being devoid of merit is liable to be dismissed.

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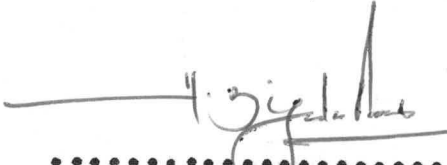
4. We have heard Mr. Deepak Misra, learned counsel for the applicant, Mr. Aswini Kumar Misra, learned Sr. Standing Counsel (CAT), and Mr. L. Mohapatra, learned counsel appearing for the Respondent No. 6 and we have given our anxious consideration to the arguments advanced at the Bar. The pre-requisite for giving appointment to any person as Extra-Departmental Branch Post Master of a particular Post Office in a village is that the applicant must belong to the post village and he must be able to provide rent-free accommodation for functioning of the Post Office. There is no evidence before us that the contention advanced by the Respondents 1 to 5 that the house offered by Adwaita Kumar Rout is at a distance of 4 K.Ms. from the village Kusunpur, ^{is wrong.} public convenience or inconvenience is the primemost consideration. We are in complete agreement with the submission made by learned Senior Standing Counsel (CAT) that the villagers of Kusunpur would be very much inconvenienced to travel a distance of 4 K.Ms. In view of such a situation we are not able to accept the contention of Mr. Deepak Misra that the appointment of Respondent No. 6 should be quashed.

Before we part with this case we must say that the applicant has worked as Extra-Departmental Branch Post Master of Mukundapur Patna Branch Post Office for a good bit of time. His appointment to the post of Extra-Departmental Branch Post Master, Kusunpur Branch Post Office could not materialise because the applicant

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could not comply with the Rules. Therefore, we would direct the Superintendent of Post Offices, Keonjhar Division to consider the case of the applicant sympathetically for any post of Extra-Departmental agents which would fall vacant in near future within his jurisdiction and give an appointment to the applicant to any post of Extra-Departmental Mail carrier or of the like nature.

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


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MEMBER (ADMINISTRATIVE)

13-8-93.


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VICE-CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack
August 13, 1993/Saranghi.

