

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK**

Original Application No. 87 of 1991

Date of Decision: 13.7.1992

Gouri Rani Pati **Applicant**

Versus

Union of India & Others Respondents

For the applicant Ms/Devanand Mishra,
Deepak Mishra,
A.Deo, B.S.Tripathy,
P.Panda, Advocates

For the respondents Mr. A. K. Mishra,
Standing Counsel
(Central Government)

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C O R A M

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

AND

THE HONOURABLE MR. M. V. PRATOLKAR, MEMBER (ADMN)

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes

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JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to appoint her as E.D.S.P.M. of Patia Sub-Post Office.

2. Shortly stated the case of the petitioner is that she was initially appointed to the post of Extra Departmental Sub-Post Master, Patia, vide Memo No.103/PP dated 7.8.1988 and when the Mail Overseer came to give charge to the petitioner on 12.9.1988, the Extra Departmental Delivery Agent Shri Dharanidhar Jena alongwith his camp followers offered vehement resistance for which the petitioner could not take charge and ultimately in a representation ^{was} filed by _h which her/did not yield any fruitful result and the appointment stood ~~cancelled~~. Hence it is prayed that appointment of Harish Chandra Tripathy (OP No.4) be cancelled and opposite parties be directed to issue an appointment in favour of the petitioner.

3. In their counter the opposite parties maintain that at the initial stage, though the employment exchange was requested to sponsor names of ^{eligible} the candidates, there was no response and from the open market there were only two applicants viz. the petitioner who is daughter-in-law of the retired Post Master Shri Parsuram Tripathy and Dharanidhar Jena who was functioning as E.D.D.A. at the relevant time. Smt. Gouri Rani Pati was selected and since there was lot of objections from the different samitis of the village, her appointment was cancelled and again employment exchange was requested to sponsor names of the candidates and still there was no response and therefore again applications were invited from _h

the open market. Only six candidates applied including the said Dharanidhar Jena. Amongst them and suitability was adjudged in favour of Shri Harischandra Tripathy (OP No.4) who has since been appointed.

4. We have heard Mr. A. Deo, learned counsel for the petitioner and Mr. A. K. Mishra, learned Standing Counsel on the merits of the case.

5. Mr. A. Deo vehemently pressed before us that once an appointment order has been issued in favour of Smt. Gouri Rani Pati which has been cancelled without adequate and sufficient reasons, The concerned authority acted in a whimsical manner basing on the objections raised by the different samitis of the villages and the concerned authority should not have acted over these objections because the members of the Samiti have no right to dictate ^{to} the administrator as to who should be appointed and who should be ^{deprived} _{by}. We find there is substantial force in the contention of Mr. Deo, learned counsel for the petitioner ^{that} and the administrative authority should not make _{themselves} ⁱⁿ subject to the directives of any person in a particular village as to who should be appointed and who should not be appointed. At the same time we cannot shut our eyes to the fact that consideration regarding the suitability of different incumbents at the initial stage was confined to only two persons viz. Smt. Gouri Rani pati who was the daughter-in-law of the retired Post Master and Shri Dharanidhar Jena, E.D.D.A. functioning at the relevant time. On a perusal of the records we are of *prima facie* opinion that there was a keen competition between these two incumbents - on the one hand

making very serious attempts to join the post and on the other hand Shri Dharanidhar Jena with his camp followers making serious efforts to dislodge Gouri Rani Pati. We fail to understand as to why the departmental authorities did not take suitable action against Dharanidhar Jena who was and is still an employee under the department for having made attempt to flout the orders of the superior authority. We leave this matter to the departmental authority to consider seriously in taking necessary action against Dharanidhar Jena so that the indiscipline attitude of a particular employee could be nipped in the bud. We do appreciate the steps taken by the departmental authorities in calling for names from the open market on the second occasions so that the consideration of candidates in a large number regarding their suitability could be well adjudicated instead of confining the selection only two persons, viz. Gouri Rani Pati and Dharanidhar Jena. However, Harischandra Tripathy (OP No.4) was selected while considering the suitability which was confined to six persons and Gouri Rani Pati was not one of the applicants and necessarily her case did not come into consideration. The concerned authority has not committed any illegality. Mr. Deo urged that Gouri Rani Pati had no knowledge about the steps taken by the departmental authorities calling for applications for making a fresh selection. We are not prepared to accept this type of case put forward on behalf of Smt. Gouri Rani Pati, because it is far beyond our comprehension that Gouri Rani Pati was sleeping quiet when she knew that the post to which she had been appointed is being seriously resisted and all and above that her appointment has been cancelled. We think Gouri Rani Pati would have been always alert to find out as to

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 but as to what is happening. For unknown reasons she did not apply and therefore rightly her case was not taken into consideration and furthermore the candidature of six persons was considered and OP No.4 was found to be suitable. We find no justifiable reason to interfere with the decision taken by the departmental authorities.

6. Before we part with this case we must observe that at one point of time the petitioner had been selected, but due to the aforesaid facts and circumstances she could not hold charge of the post and her appointment was cancelled. We hope and trust that she would be put in the waiting list and the Chief Post Master General would take a sympathetic view over her (the petitioner) and try to give her an appointment in the post of Extra Departmental Delivery Agent/Extra Departmental Stamp Vender against any vacancy occurring in Bhubaneswar or near about Bhubaneswar.

7. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

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 (B-782)
 MEMBER (ADMINISTRATIVE)

13-7-92
 13-7-92
 VICE-CHAIRMAN

Central Administrative Tribunal
 Cuttack Bench, Cuttack
 dated the 13th July 1992 BB Sahoo

