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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

O.A. No. 101 of 1991

Date of Decision: 18-5-1993

Harish Chandra Naik Applicant

-Versus-

Union of India and Ors. Respondents

For the Applicant ... Mr. S. B. Mohanta, Advocate

For the Respondents ... Mr. A. K. Mishra, Senior
Standing Counsel (Central)

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CORAM:

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

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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? *AD* Their
3. Whether *His* Lordshipswish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to the Opposite Parties to allow the Petitioner to join the post of Postman.

2. Shortly stated the case of the Petitioner is that on 6.8.1989 the Petitioner while working as Extra Departmental Branch Post Master appeared in the Special Recruitment Examination for promotion to the cadre of Post-man. The Petitioner was selected and had been directed to undergo training for 10 days with effect from 11.6.1990. He did not undertake the training on the ground of illness and made representation. Since the presentations of the petitioner did not yield any fruitful result, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the plea of sickness is absolutely false and therefore, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. S. B. Mohanta learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra learned Senior Standing Counsel (Central) for the Opposite Parties.

5. The fact is that the petitioner was selected for the post of Post-man is not disputed. The fact that the petitioner did not undergo training in response to the letter No.B2-5 dated 1st June, 1990 is admitted. The only disputed fact is that as to whether the petitioner was ill or not. No medical certificate has been filed to substantiate the case of the petitioner that he was ill. In their counter, the Opposite Parties stated as follows:-

"In response to the Annexure-2, the applicant submitted an application dated 11.6.90 which is enclosed as Annexure 3 and a copy of the Annexure 3 was received through the Sub-Divisional Inspector, Karanjia, who in forwarding the same reported in his letter No.B/ED BPM/Jamunti/90 dated 14.6.1990 that the applicant was neither sick nor under medical treatment."

Further it is stated in their counter that the petitioner was on duty from 13.5.1990 to 9.8.90 and had discharged the duty of Branch Post Master. Therefore according to the Opposite Parties the story of illness is false. After filing the counter, the Petitioner very well knew that the S.D.I.P had reported that the petitioner was not sick. still then, the petitioner did not choose to file any medical certificate. No rejoinder has been filed to the averment finding place in the counter filed by the Opposite Parties that during the relevant period, the petitioner was actively discharging the duties of a Branch Post master. Since there is no statement contradicting this fact, we have no other option

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but to accept the statement made in the counter, and since the petitioner was actively discharging his duties as Branch Postmaster, the case of illness cannot be accepted. Hence in our opinion, the petitioner intentionally did not undergo the training for the reasons best known to him and therefore, we find no merit in this case which stands dismissed leaving the parties to bear their own costs.

Abdul MEMBER (ADMINISTRATIVE)

Leela 18/5/93
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty
• 1993.

