

CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No.340 of 1992
 Cuttack this the ~~14/~~ day of May, 1998

Manoranjan Senapati ...

Applicant

-Versus-

Union of India & Others

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Yes* ,

2. Whether it be circulated to all the Benches of the
 Central Administrative Tribunal or not ? *No* .

14-5-98
 (G.NARASIMHAM)
 MEMBER (JUDICIAL)

Somnath Som
 (SOMNATH SOM)
 VICE-CHAIRMAN
 14-5-98

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.340 OF 1992
Cuttack this the 4th day of May, 1998

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

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Sri Manoranjan Senapati
aged about 30 years,
S/o.Late Padma Charan Smantray
Vill:Paikapara Patna
PO:Narasinghpur
Dist:CUTTACK

By the Advocate:

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Applicant
M/s.P.V.Ramdas
B.K.Panda

-Versus-

1. Union of India represented by the Chief Post Master General
Orissa Circle,
Bhubaneswar-751001
Dist:Puri
2. Superintendent of Post Offices
Cuttack South Division
Cuttack-753001
3. Sub-Divisional Inspector (Postal)
Athagarh Sub-Division
Athagarh-754029

Respondents

Respondents

By the Advocate:

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Mr.Ashok Mishra
Sr.Standing
Counsel (Central)

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ORDER

MR.SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order dated

17.7.1992(Annexure-2) in which his services as Extra Departmental Delivery Agent(EDDA) Narasinghpur S.O. were terminated on administrative grounds unconnected with his conduct.

2. The short facts of the case according to the petitioner are that for filling up of the post of E.D.D.A., Narasinghpur S.O., the departmental authorities called for names from the Employment Exchange. Eleven names were sponsored by the Employment Exchange and after considering the candidature of the persons concerned, Respondent No.3 selected the applicant for the post of E.D.D.A.Narasinghpur S.O. The order of appointment dated 11.3.1992(Annexure-1) was issued to the petitioner. The petitioner states that he joined the duty on 9.3.1992 and performed the duties with utmost sincerity, but suddenly the impugned order of termination was passed and as there is no provision for appeal, he approached the Tribunal with the aforesaid prayer.

3. The respondents in their counter have pointed out that for filling up of the post of E.D.D.A., Narasinghpur S.O., on the requisition of the departmental authorities, twenty candidates were sponsored by the Employment Exchange, but Res.3 called detailed applications from only 19 of them fixing the last date of receipt of applications as 13.12.1991. In response thereof 10 candidates applied for the post. Respondent No.3 prepared a check-list in respect of those 10 applicants and selected the petitioner for appointment and accordingly he was provisionally appointed as E.D.D.A. from 9.3.1992. Subsequently, on receipt of an allegation about the selection, the Chief

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Post Master General, Orissa, examined the selection file and found several gross irregularities committed by Respondent No.3. Some of the irregularities noted by the Chief Post Master General are the following:

1. In the requisition sent to Employment Exchange it was wrongly mentioned that women candidates are not eligible and that is why no women candidates were sponsored.
2. Secondly, Respondent No.3 did not mention the names of the villages coming within the area of operation of Narasinghpur S.O. and therefore, the local applicants' name could not be forwarded.
3. Thirdly, Res.3 rejected some of the applicants on some flimsy grounds of not furnishing some information, but entertained certain other applications even though in those applications also similar mistakes were there.

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The respondents have stated that the application of the petitioner was entertained in spite of certain defects, but for the same defects candidature of other applicants were rejected. In consideration of all this, the Chief Post Master General desired that the entire selection should be done de novo and in view of this the order terminating the provisional appointment of the petitioner was issued. The respondents have further submitted that E.D. Agents are governed by P&T E.D.A. (Conduct & Service) Rules, 1964, and the impugned

order ~~validly~~ has been issued ~~under~~ ^{validly} Rule-6 of the above rules ~~legally~~ and cannot be ~~legally~~ questioned. It is also submitted that in the appointment order issued to the applicant, it was clearly mentioned that appointment is ^{and} provisional ~~and~~ does not confer any right on him to claim any other appointment. In view of this the respondents have opposed the prayer of the petitioner.

4. We have heard the learned counsel for the petitioner Shri P.V.Ramdas and learned senior counsel Shri Ashok Mishra appearing on behalf of the respondents and have also perused the record.

5. In the counter the respondents have given details as to how Respondent No.3 had rejected the candidature of other applicants, but ignoring the similar defects entertained the applications of certain other applicants including the petitioner. It is not necessary for us to go into the details of these things except the ~~fact~~ that the petitioner got 318 marks in the H.S.C.Examination, but two other candidates viz., Shri Saroj Kumar Dash got 395 marks and Shri Sankhalai Ch.Mahabhoi got 333 marks in H.S.C. Examination. But the candidatures of Shri Saroj Kumar Dash and Shri Sankhalai Ch.Mahabhoi were rejected on some trifling ground. The respondents have stated that application of Shri Manoranjan Senapati, applicant in this case also contains minor omission like the application of Shri Saroj Kumar Dash and Shri Sankhalai Ch.Mahabhoi, but his application was not rejected and was entertained. It is not necessary for us to go into all those details

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except when in view of order passed by the Tribunal on
9.3.1993 in M.A.27/93 (arising out of this O.A.). The
petitioner filed this M.A. praying that the respondents be
directed to allow the applicant to continue as E.D.D.A.
pending adjudication of the Original Application. This
M.A.
came up for consideration on 9.2.1993 when after hearing
the learned counsels for both sides, and Superintendent of
Post Offices and S.D.I(P), who were also present in the
Court on that date, the Tribunal ordered that the
petitioner should continue as E.D.D.A. and his case should
be considered afresh along with others. It was also
directed that the final selection should be completed
within 90 days and till the final selection, the
petitioner should continue. It was also ordered that
whoever is found to be suitable should be appointed and if
the applicant is not found to be suitable, he must vacate
the post in favour of the person who was found to be
suitable. With the above observation M.A.27/93 was disposed
of.

6. Against this order dated 9.2.1993 passed in
M.A.27/93, none of the parties have gone on appeal and
therefore, the order passed in M.A.27/93 has become final.
According to this order the petitioner has continued till
the fresh final selection. Learned counsels for both sides
were unable to indicate to us as to whether the final
selection was completed and whether the petitioner was
ultimately selected in the final selection. But in view of
the above order passed in M.A.27/93, we hold that in this
case cause of action does not survive any more. We,

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therefore, dispose of this application as it has become
infruitless. Parties to bear their own costs.

14.5.98

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

B.K. Sahoo, C.M.

Somnath Som
14.5.98