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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 29 of 1992

Date of Decision: 13.12.1993

Atal Behari Samal

Applicant(s)

Versus

Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No

  
MEMBER (ADMINISTRATIVE)

13 DEC 93

  
VICE-CHAIRMAN

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Respondents

For the applicant

M/s. J.M. Mohanty  
A. Swain  
P.K. Mohanty  
S.K. Mohanty  
Advocates

For the respondents

Mr. A.K. Mishra,  
Standing Counsel  
(Central)

C O R A M:

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

AND

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

JUDGMENT

MR. K.P. ACHARYA, VICE-CHAIRMAN: One Shri Gurucharan Samal was functioning as Extra Departmental Delivery Agent in Sakti Nagar Post Office within the district of Sundergarh. Gurucharan remained unauthorisedly absent for a long period and <sup>his</sup> ~~he~~ is where-about was not known. The petitioner, Shri Atal Behari Samal was appointed as a substitute in the place of Shri Gurucharan. Final selection for the said post was conducted, and, one Shri Promod Kumar Panda has been selected to be the suitable candidate for appointment to the said post on permanent basis. Hence this application has been filed with a prayer to quash Annexure-3,

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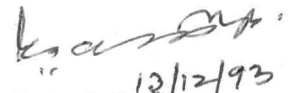
terminating the substitute arrangement made by the competent authority in which the petitioner was acting as a substitute.

2. In their counter the opposite parties maintain that the petitioner has no locus standi to challenge the selection/appointment of Shri Pramod Kumar as the case of Shri Promod Kumar and the petitioner along with many others (82 in number) was considered, and Shri Promod Kumar having been found to be suitable, appointment order has been issued in his favour. The case being devoid of merit is liable to be dismissed.

3. We have heard learned counsel for the petitioner and Mr. Aswini Kumar Mishra, learned Standing Counsel. On a perusal of the pleadings of the parties and the relevant records, and after hearing counsel for both sides in extenso, we find nowhere as to whether the case of the petitioner was considered along with others. Neither in the petition it is stated that the case of the petitioner <sup>was</sup> not considered, nor, in the written statement, it is stated that the case of the petitioner was considered. We would have ordinarily quashed the appointment of Shri Promod Kumar on this ground, but, in our opinion Promod Kumar is a necessary party and without Promod being arrayed as one of the opposite parties, we cannot pass any adverse orders against Promod without hearing him. Law is well settled on this question. In addition to the above, we would say that zone of selection has been wide, and that apart, it was the

bounden duty of the petitioner to state in the petition as to whether he had made an application for the post in question, or not. The petitioner has failed in his duties to state such facts. Therefore, taking into consideration, the aforesaid facts and circumstances of the case on merits, and taking into consideration the facts that Shri Promod Kumar is not one of the opposite parties in this case, we find no other option but to dismiss the application, which is disposed of accordingly. No costs.

  
MEMBER (ADMINISTRATIVE)  
13 Dec 93

  
12/12/93  
VICE-CHAIRMAN

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 13.12.1993/B.K. Sahoo