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Central Administrative Tribunal
Cuttack Bench, Cuttack

Original Application No. 513 of 1992

Date of decision: 2nd November, 1992

Bhajahari Nayak Applicant

Versus

Union of India and others Respondents

For the Applicant M/s S.Kr.Mohanty,
S.P.Mohanty,
Advocates.

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

CORAM:

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

AND

THE HONOURABLE MR. K.J.RAMANA, MEMBER (ADMINISTRATIVE

1. Whether Reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not?
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P.ACHARYA, V.C.

This case came up on 12th October, 1992

before the learned Single Judge for admission. On the said day the learned Single Judge ordered that the matter may come up before the Division Bench. Hence we have heard Mr. S.K.Mohanty learned counsel for the Petitioner and Mr. Ashok Mishra learned Senior Standing Counsel (Central) on the question of admission.

2. Succinctly stated the case of the Petitioner is that he has been working as Extra Departmental Branch Postmaster Biswanathpur Branch Post Office since 7th January, 1961. He has also been working as L.P. School Teacher in Biswanathpur L.P. School since 1st October, 1957. During the said period, the practise inforce was that a particular person could act as an Extra Departmental Branch Postmaster and also as a School teacher. By virtue of an amended administrative instruction, this practise was though of being discontinued as the time for opening of the Branch Post Office and commencement of the School classes clashed with each other. Hence such an order has been passed by the Postal Department.

3. The Present Petitioner feels aggrieved by such an order and has prayed to quash the said order. A copy of the impugned order has not been filed. The next prayer of the petitioner is to quash annexure 3 and 3/1 by virtue of which applications have been invited, to fill up the post of E.D.B.P.M, Biswanath Pur and other Post Offices. The Petitioner, therefore, wants

that he should be allowed to continue as a School Teacher till his date of retirement on superannuation from the Education Department.

4. Firstly, this application, is not maintainable because the impugned order sought to be quashed has not been filed.

5. Mr. Mohanty learned Counsel appearing for the Petitioner submitted that the long practise in vogue is now sought to be changed by another administrative instruction for which the Petitioner's right to continue either as School Teacher or as an Extra Departmental Branch Postmaster is infringed. Principles of natural justice demand that the petitioner should be noticed and after hearing him necessary orders should be passed. The aforesaid argument of Mr. Mohanty learned Counsel for the Petitioner carries no weight with us because though some people like that of the Petitioner may be affected, yet this is a general policy decision taken by the Government. In regard to general policy decision, no notice need be issued to a particular incumbent and that apart every case has to be governed by its own facts and circumstances. So far as continuance or otherwise of the Petitioner as a School Teacher is concerned, we cannot give any direction because we have no jurisdiction to be exercised over the employees working under the District Inspector of Schools but we cannot find any fault with the Government for changing its policy decision which would help the people who are
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going with begging bowls, from Post to pillar and the Government wants that a particular individual should not derive double benefit in regard to financial emoluments. In our opinion, this is a very laudable move on the part of the Government. That apart on this point, there is a judgment of the Division Bench deplored or disapproving the system and subsequently a similar matter came up before the Single Judge forming subject matter of O.A. 398 of 1992. The Single Judge did not accept the aforesaid contention, following the view of a Division Bench of this Tribunal which took the very same view which we feel inclined to take in the present case. The Division Bench judgment forms subject matter of Original Application No.165 of 1992 disposed of on 30th April, 1992. We find no reason to make a departure from the view already taken by the Division Bench.

6. In the circumstances stated above, we find no merit in this application which stands dismissed. No costs.

7. The Senior Supdt. of Post Offices, Berhampur Ganjam (Opposite Party No.3) is hereby directed to give effect to Annexure 3 and 3/1 without any further delay. In case the Petitioner has resigned from the Teachership and if it has been accepted, then the directions given in Original Application No.398 of 1992 (Annexure 2) should be carried out.

K. Mohanty
MEMBER (ADMINISTRATIVE)

K. Mohanty
2-11-92
VICE CHAIRMAN

Central Admn. Tribunal
Cuttack Bench, Cuttack
K. Mohanty/2.11.1992.

