

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

O. A. No. 596 of 1992

Cuttack the 3rd day of May, 1995.

P. C. Mohanty ... Applicant

YES.

Union of India & Others ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? ✓
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? ✓

(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

03 MAY 95

(D. P. HIREMATH)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

O.A. No. 596 of 1992

Cuttack, the 3rd day of May, 1995.

CORAM :

THE HON'BLE MR. JUSTICE D.P.HIREMATH, VICE CHAIRMAN
AND
THE HON'BLE MR. H.RAJENDRA PRASAD, MEMBER (ADMN.)

Prafulla Chandra Mohanta,
21 years,
Son of Suresh Chandra Mohanta,
Vill./Po- Ora Chandabilla,
Via- Pratap Pur,
P.S.- Betnoti, Mayurbhanj.

... Applicant

By the Advocate ... Ms. S.L. Patnaik,
Mr. D.K.Patnaik,
Advocates.

-Versus-

- 1) Union of India represented by its Secretary, Ministry of Communications, New Delhi-110 001.
- 2) Chief Postmaster General, Orissa Circle, Bhubaneswar-751 001.
- 3) Superintendent of Post Offices, Mayurbhanja Division, Baripada.
- 4) Smt. Ratnamani Mohanta, Wife of Kishore Mohanta, Vill./Po-Orachandabilla, Via- Pratap Pur, District-Mayurbhanj. ... Respondents

By the Advocate for OP No.1 to 3 ... Mr. Ashok Mishra,
Sr. Standing Counsel
(Central).

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 By the Advocate for OP No.4. ... M/s. P.Palit, B.Mohanty,
 M.P. Mohapatra,
 B.K.Rout, Advocates.

ORDER

D.P.HIREMATH, V.C.

The applicant herein challenges the appointment of Respondent No.4 as Extra Departmental Branch Postmaster by the order of the Superintendent of Post Offices dated 8th January, 1992. The applicant was also one of the applicants for the post of Extra Departmental Branch Post Master and we have got a comparative chart of merit and Income produced by the Respondents which shows that Respondent No.4 is a H.S.C. Passed which is equivalent to Matriculation and the applicant was only 8th class passed. His income was shown as Rs.11,500/- and that of Respondent No.4 Rs.10,500/-. There is no dispute about the qualification for being appointed as Extra Departmental Branch Post Master. Looking to her educational qualification and giving preference to it, Respondent No.4 came to be selected and appointment order was issued.

2. The main ground of attack of her appointment is that she misrepresented to the Tahasildar about her income and therefore, she cannot hold the post. In this behalf, petitioner's counsel has invited our attention to the certificate issued by the

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Tahasildar and also the R.I. Certificate. The Tahasildar issued the income certificate stating that she had income of Rs.10,500/- from the Agricultural land and there was no other source of income. It is likely that the Tahasildar issued the Income Certificate basing on the report of the concerned R.I. who determined that her agricultural income is ~~Rs. 10,500/-~~^{Rs. 10,400/-}.

The applicant's counsel invited our attention to the breakup of the extent of the agricultural land which shows that she possessed three lands measuring Ac.0.68, A.1-20 and Ac.5.26 totalling of about A.7.14 and the income from the above land about Rs.10,500/-. As the petitioner disputed the very basis of this certificate and questions its correctness, we secured the original certificate issued by the Tahasildar and the Report of the R.I.. The Petitioner even alleged that the Respondent No.4 had committed fraud by ~~sweating~~^{sweating to} a false affidavit.

3. We have perused the Affidavit filed before the Tahasildar on 25.1.1992 in which she stated that she ^{was} possessed of about four acres of landed property in her village and she stated in the Affidavit that her income ^{is} Rs.12,000/- from Agriculture and Rs.3000/- from Business. The total income of Respondent

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NO. 4 comes to Rs.15,000/-. Counsel for Respondent no. 4 when asked to secure the records relating to the properties, he also got, two other sale deeds standing jointly in her name and in the names of her four brothers and another one standing exclusively in the name of her mother. 74 decimals of land is in sale deed under 1676 whereas 50 decimals would be found in Sale deed No. 2026. Counsel for the Respondent No. 4 also made it ^{plainly} ~~evidently~~ clear that this sale deed No. 2026 is in the name of her mother Smt. Jasodamani Mohanty whereas Sale Deed No. 1676 is is owned by her four brothers. Together these two Sale Deeds made Ac.1.24 and the Sale deed standing in her name could be ^{of} Ac.1.88 and the calculation made to this effect is about Four acres or so. Therefore, according to him, she did not commit any ~~fraud~~ or misrepresented to the Tahasildar when she filed the Affidavit. It is also stated by the Respondent No. 4's counsel that the mother of the respondent No. 4 died sometime in the year 1992 - before the respondent No. 4 was appointed as Extra Departmental Branch Post Master. Though she gave the total agricultural income ^{as} Rs.12,000/-, the Tahasildar basing on the report of the RI issued the income certificate stating that her income is Rs.10,500/-.

It was further urged for the respondent No.4 that various departmental letters issued as guidelines to the appointing authority in this behalf made it amply clear that the income should not be taken as conclusive and what is required should be some substantive income from sources disclosed. That appears to be the spirit of various rules which also prescribe adequate means of livelihood for a person to be appointed as Extra Departmental Branch Post Master. It is educational qualification that should weigh in preference to any other qualification and Respondent No.4 undoubtedly possessed a better qualification than the petitioner who is only 8th standard passed. Perhaps keeping in view that she had better qualification than the petitioner and keeping reliance on the income certificate issued by the Tahasildar, appointment order came to be issued to the Respondent No.4. At one stage we considered whether serious note should be taken of the affidavit filed before the Tahasildar and whether we should allow such things to be repeated. On going through the Original Affidavit, we find that there is no such Impropriety committed in the affidavit in as much as she possessed 4 acres of land and that her income was Rs.12000/-. In any event

the petitioner has absolutely no chance of being preferred to Respondent No.4. In case of Respondent 4 the appointing authority acted on the material placed before him keeping greater reliance on the educational qualification. We do not find any merit in this application, the same fails and is dismissed.

H. Rajendra Prasad
(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

03 MAY 95

D. P. Hiremath
(D. P. HIREMATH)
VICE-CHAIRMAN

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