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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.635 of 1992

Date of Decision: 18.1.1993

Bibhuti Bhusan Mohanty

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s.R.K.Mohanty
P.C.Acharya,
Advocates

For the respondents

Mr.Ashok Mishra,
Sr.Standing Counsel
(Central Government)

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C O R A M:

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

AND

THE HONOURABLE MR.S.R.ADIGE, MEMBER (ADMINISTRATIVE)

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? NO
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application 19 of the Administrative Tribunals Act, 1985, the petitioner prays for giving a direction to the opposite parties to appoint the petitioner as he is ^{the} only eligible candidate, and the opposite parties be directed not to appoint any outsider in the post of Extra Departmental Mail Carrier in Balakati Sub-Post Office.

2. Shortly stated the case of the petitioner is that he was appointed as a substitute of E.D.Packer in Balakati Sub-Post Office. On 6.9.1991, the petitioner was relieved from the said post. Another person has been appointed in his place and sometime thereafter that particular person is no more in the said post and the post now remains vacant. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the appointing authority ^{/for regular selection} is taking necessary steps according to the directions given by this Bench in Original Application No. 348 of 1992 disposed of on 29.10.1992 vide Annexure-R/6. No illegality having been committed by the appropriate authority, the prayer of the petitioner should be dismissed.

4. We have heard Mr.P.C.Acharya, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel. Shri Bimbadhar Biswal, Assistant Superintendent of Post Offices is present in the Court to assist the Bench. Mr.Acharya, learned counsel for the petitioner submitted relying on the provisions contained in Rule-4 (2)

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under Section 2 of Service Rules for Extra Departmental Staff of Postal Department that an E.D.Packer must reside in the station of the main post office or stay wherefrom mails originate/terminate, i.e. he should be permanent resident of the delivery jurisdiction of the post office. Violation of this provision is an illegality committed by the appropriate authority. On the other hand Mr. Ashok Mishra, learned Standing Counsel placed reliance on the judgment passed in Original Application No. 348 of 1992 disposed of on 29.10.1992. In this judgment direction has been given to appoint the petitioner Shri Niranjan Moharana (in O.A.No. 348/92) in respect of the said post office. We cannot but respect that judgment. Therefore, we find no merit in this application which stands dismissed leaving the parties to bear their own cost.

5. Before we part with this case, we would direct the Assistant Superintendent of Post Offices, Bhubaneswar Division, to keep the name of the petitioner Shri Bibhuti Bhusan Mohanty in the waiting list and give an appointment when his turn comes.

Anjali
MEMBER (ADMINISTRATIVE)

[Signature]
18.1.93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 18.1.1993 B.K.Sahoo

