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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 638 OF 1992
Cuttack this the 22nd day of March, 1999

Narendra Kumar Sahu

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(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.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 22.3.99

22.3.99
(G.NARASIMHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 638 OF 1992
Cuttack this the 22nd day of March, 1999

CORAM:

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

Narendra Kumar Sahu,
aged about 45 years,
Son of Dharmu Sahu,
At: Chedunga Jhanja,
PO: Jaruseth, Via: Mandosil,
Dist: Sambalpur

... Applicant

By the Advocates : M/s.Devanand Mishra
A.Deo,
B.S.Tripathy,
P.Panda
D.K.Sahoo

-Versus-

1. Union of India represented by its
Secretary, Department of Posts,
Dak Bhawan, New Delhi
2. Chief Post Master General,
Orissa Circle, At/PO: Bhubaneswar,
Dist: Puri
3. Postmaster General,
Sambalpur Division
At/Po/District: Sambalpur
4. Senior Superintendent of Post Offices,
Sambalpur Division,
Po/Dist: Sambalpur
5. Sub-Divisional Inspector(Postal)
At/Po: Rajborasambar,
Dist: Sambalpur
6. Ayub Mahammad
now working as E.D.B.P.M., Bartanda
At/Po: Bartunda, Dist: Sambalpur

... Respondents

By the Advocates : Mr.S.Behera
Addl.Standing Counsel
(Central)

ORDER

MR.G.NARASIMHAM, MEMBER(J): In this application under Section 19 of the Administrative Tribunals Act, 1985, filed on 2.12.1992, applicant Narendra Kumar Sahu, seeks to quash the order of termination passed under Rule-6 of E.D.A.(Conduct & Service) Rules, 1964(in short Rules) by Respondent No.4 on 9.4.1991 (Annexure-5). He also prays for quashing the order of appointment of Respondent No.6 to that post of E.D.B.P.M., Bartanda Branch Office which he was holding.

As the post of E.D.B.P.M. of that Branch Office fell vacant because of put off duty of the ex-E.D.B.P.M. due to disciplinary proceeding, Respondent No.4 called for names from the Employment Exchange. The name of the applicant was sponsored along with others and he was ultimately selected by Res.4 and appointed on 27.12.1990(communicated to the applicant in Memo dated 31.12.1990)(Annexures-1 and 2). Accordingly the applicant took over the charge on 31.12.1990 (Annexure-3). However, in memo dated 9.4.1991 his services were terminated and he made over charge on 14.5.1991.

According to applicant he preferred departmental appeal to Respondent No.3 against the order of termination on 23.5.1991(Annexure-7), but without any response and in the meanwhile, Respondent No.4 appointed Res.6 as E.D.B.P.M. of that Branch Post Office provisionally.

2. Respondent No.6, though duly noticed has neither entered appearance nor contested.

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3. The stand of the department-respondents is that consequent upon the vacancy arising on account of put off duty of the regular E.D.B.P.M., a request letter^{dated 10.10.1990} was issued to the Junior Employment Officer, Padampur ~~xx~~ indicating that the candidates should have passed minimum Class-VIII and must be the residents of Bartunda Revenue village (Annexure-R/1). By then the rule as per Post & Telegraph circular dated 30.1.1981 was a candidate for E.D.post should be a permanent resident of that village where post office is located (Annexure-R/2). The Employment Officer sponsored 8 names including the name of the applicant. Applicant, who was provisionally selected for the post submitted a residential certificate issued by Tahasildar, Paikamal in Misc.Case No.637 dated 17.11.1990 indicating that he was permanent resident of Village Bartunda (Annexure-R/6). However, on a complaint received from the villagers on 4.1.1991 that the applicant was not a permanent resident of that village (Annexure-R/7), the matter was pursued and a latter No.394 dated 6.2.1991 was received from Tahasildar, Paikmal (Annexure-R/8) intimating that residential certificate issued in favour of the applicant has been modified to the extent that the applicant belongs to village Cherengajhanj instead of village Bartunda. Village Cherengajhanj is not a hamlet of Bartunda revenue village, but a separate revenue village notified in Census of India 1981 (Annexure-R/9). Accordingly the impugned order of termination was passed and thereafter the Junior Employment Officer, Padampur was requested to sponsor names; in response to which three names have been

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sponsored excluding the name of the applicant under Annexure-R/14. After observing all usual formalities, Respondent No.6, who is a permanent resident of post village Bartunda was selected.

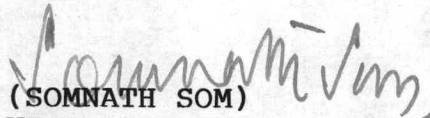
4. We have heard the submissions of learned counsel for the applicant Shri A.Deo and learned Addl.Standing Counsel for departmental respondents Shri S.Behera and have also perused the records.

5. Subsequent order of the Tahasildar intimating that the applicant was not a resident of post village Bartunda, but a separate revenue village has not been challenged by the applicant. In other words, there is no dispute that the applicant is not a resident of post village. By then one of the requisite qualifications for selection and appointment to the E.D.post was a candidate must be the resident of the post village. In other words, the applicant had no qualification to be appointed as E.D.B.P.M. of that post village. Hence order of termination of an illegal and irregular appointment is not unjustified under law.


Even otherwise, we feel this application is barred by limitation. At the time of admission on 21.12.1991, it was ordered that question of limitation would be kept open to be taken up at the time of hearing. The impugned order was passed on 9.4.1991. The applicant preferred appeal, as stated by him, against the order of termination on 23.5.1991. Even assuming that he had a statutory or departmental remedy of filing such appeal, he should have approached the Tribunal before 23.11.1992, as required under Sections 20 and 21 of the

Administrative Tribunals Act, 1985. But this application has been filed on 21.12.1992. Thus there is delay in filing this application and for condoning this delay, no petition for condonation of delay has been filed by the applicant. Even in the Original Application this delay has not been explained. In the absence of any explanation as to the cause of delay, this Tribunal cannot suo motu condone the delay.

For the reasons discussed above, we do not see any merit in this application which is accordingly dismissed, but without any order as to costs.


(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO


(G.NARASIMHAM)
MEMBER (JUDICIAL)