

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

Original Application No. 666 of 1992

Read With

Original Application No. 116 of 1991

Date of decision: January 22, 1993

In O.A.No.666/92: Ajit Kumar Pradhan Applicant

Versus

Union of India & Others **Respondents**

Im O.A.No.116/91 : Lachhaban Digala Applicant

Versus

Union of India & Others **Respondents**

In O.A.No.666/92: For the applicant: Ms.S.L.Patnaik
Mr.D.K.Patnaik
Advocates

For the respondents: Ashok Mishra,
Sr. Standing Counsel
(Central Government)

In O.A. No.116/91: For the applicant M/s. P.V.Ramdas,
B.K.Panda,
M.B.K.Rao,
Advocates
For the respondents Mr.Aswini Kumar Mishra,
Standing Counsel
(Central Government)

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 ?
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 Original Application No. 666 of 1992, petitioner Shri Ajit Kumar Pradhan has a grievance viz. the competent authority though, had appointed him as Extra Departmental Mail Carrier of Banda Post Office under Raikia Sub-Post Office in the District of Phulbani as the services of the petitioner Shri Lachhana Digal, petitioner in Original Application No. 116 of 1991 was terminated. Further grievance of the petitioner Shri Ajit Kumar Pradhan is though he was satisfactorily rendering services as E.D.M.C. of the said post office, for no rhyme or reason his services were dispensed with and one Shri Udeswar Pradhan has been appointed to the said post. Hence Ajit Kumar Prays for quashing the appointment of Shri Udeswar Pradhan and his reinstatement to the post in question.

2. In Original Application No. 116 of 1991 Shri Lachhana Digala puts forth his grievance viz. termination of his services having been done most illegally. Hence Shri Lachhana Digala has prayed for quashing the order of termination. Since both the above mentioned cases are connecting with each other, with the consent given by the counsel for both sides we have taken up both the cases for hearing and this common judgment will govern both the cases.

3. In Original Application No.116 of 1991 Mr.P.V.Ramdas, learned counsel for the petitioner and Mr.Aswini Kumar Mishra, learned Standing Counsel appearing for the Central Government. In Original Application No. 666 of 1992, we have heard Mr.S.L. Patnaik, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel for the Central Government separately.

The Superintendent of Post Offices, Phulbani (Shri T.V.Krishna)

was directed to appear in person and assist the Court. He has appeared. We have also heard him. The Superintendent of Post Offices, Phulbani could not give us ^a convincing answer as to the reasons for which the services of Shri Ajit Kumar (In O.A.666/91) were dispensed with, who had been provisionally appointed to the said post and Shri Udeswar Bradhan was appointed to the same post on provisional basis. The Superintendent of Post Offices made a statement to us that Shri Ajit Kumar had rendered his services for a period of 535 days. We cannot appreciate the step taken by the S.D.I.(P), G.Udayagiri for terminating the services of Shri Ajit Kumar, against whom there is no adverse report, as submitted by the Superintendent. That apart the Supreme Court has made the law clear that before an adverse order is passed, the party against whom the adverse order is proposed to be passed should be given notice of the same and he should be heard failing which principles of natural justice is not complied. In the case K.I. Shephard vs. Union of India reported in 1987 (4) SCC Hon'ble Mr. Justice Ranganath Mishra (My Lord the Chief Justice of India then was) speaking for the Court was pleased to observe as follows:

"On the basis of these authorities it must be held that even when a State agency acts administratively, rules of natural justice would apply. As stated, natural justice generally requires that persons liable to be directly affected by proposed administrative acts, decisions or proceedings be given adequate notice of what is proposed so that they may be in a position (a) to make representations on their own behalf; (b) or to appear at a hearing or enquiry (if one is held); and (c) effectively to prepare their own case and to answer the case (if any) they have to meet".

Therefore it seems to us that the S.D.I.(P) has trampled down the law laid down by the Hon'ble Supreme Court.

We sincerely hope that the Post Master General, Berhampur would take serious notice of this fact and call upon the S.D.I.(P) to explain as to why he terminated the services of the petitioner Shri Ajit Kumar Pradhan without any rhyme or reason and in case the Post Master General, Berhampur is not satisfied with the explanation submitted by the S.D.I.(P), G.Udayagiri, necessary action should be taken against the S.D.I.(P), G.Udayagiri. Pending finalisation of the selection process about which we could observe later it is directed that the Ajit Kumar Pradhan should be immediately reinstated to the post in question.

4. We direct the Superintendent of Post Offices, Phulbani to take up the selection process for appointment to the post of E.D.M.C., Banda Post Office ⁱⁿ _{which} the cases of the petitioners Shri Ajit Kumar Pradhan, Shri Lachhan Digal and Udeswar Pradhan and any other candidates sponsored by the Employment Exchange or any other candidates applying from the open market should be considered and after adjudicating the suitability of the particular incumbent, necessary order of appointment be passed in favour of the person who is found to be suitable. We hope and trust the experience gained by Shri Ajit Kumar Pradhan and Lachhan Digal will be taken into consideration by the Superintendent of Post Offices, Phulbani and due weightage should be given.

5. We purposefully order the Superintendent of Post Offices, Phulbani to undertake the selection process and not the S.D.I.(P), G.Udayagiri, because of the ^{illegal} _{both} acts committed by him which we do not approve. Thus ^{the} applications are _{are}

accordingly disposed of leaving the parties to bear their own cost.

6. Send a copy of this judgment to the Post Master General, Berhampur, specially inviting his attention to the observations made above and necessary action being taken by him and a copy of this judgment be made available to the Superintendent of Post Offices, Phulbani for his compliance.

Anjali Sahoo 22/1/93
MEMBER (ADMINISTRATIVE)

Basu 22.1.93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 22.1.1993/ B.K.Sahoo

