

3 3  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 300 of 1993

Date of Decision: 13.8.1993

Antaryami Sahoo

Applicant(s)

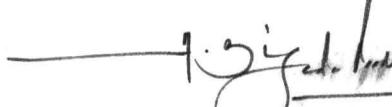
VERSUS

Union of India & Others

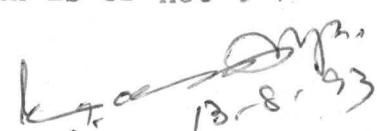
Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *NO*
2. Whether it be circulated to ~~all~~ the Benches  
of the Central Administrative Tribunals or not ? *NO*

  
MEMBER (ADMINISTRATIVE)

13 Aug 93

  
13 Aug 93  
VICE-CHAIRMAN

4  
4  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 300 of 1993

Date of Decision: 13.8.1993

Antaryami Sahoo

Applicant

VERSUS

Union of India & Others

Respondents

For the applicant

M/s. Deepak Misra  
A. Deo,  
B.S. Tripathy  
Advocates

For the respondents

Mr. Akhaya Mishra  
Standing Counsel  
(Central)

C O R A M:

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

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

## JUDGMENT

MR .K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act,1985, the petitioner prays for a direction to be issued to OP Nos.3 and 4 to issue an order of appointment - a decision which has already been taken - for the post of Extra Departmental Branch Post Master, Balarampur Post Office.

2. Shortly stated the case of the petitioner is that his name was sponsored along with three others by the Employment Exchange for considering the cases of each of the persons for appointment to the post of E.D.B.P.M., Balarampur Post Offices. Cases of all the candidates were considered and a check list was prepared, and according to the petitioner, he had been selected. Since the order of appointment is not being issued in his favour, this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the certificates filed by three co-applicants of the petitioner were found to be not genuine and therefore they were not selected. A vigilance enquiry was conducted and on the report of the Vigilance Officer, **the Chief Postmaster General** considered the entire matter and ordered for a fresh selection process to be conducted. Hence order of appointment has not been issued in favour of the petitioner. The case being devoid of merit is liable to be dismissed.

4. We have heard Mr. B. S. Tripathy, learned counsel for the petitioner and Mr. Akhaya Kumar Mishra, learned Standing Counsel. It was submitted that the certificate granted by the Tahasildar in favour of the petitioner showing the income from agriculture <sup>al</sup> ~~lands as~~ Rs. 8000/- has no leg to stand on, because, no property has <sup>been</sup> ~~been~~

ever been purchased or stands in the name of the petitioner.

Mr.Tripathy filed a deed of family settlement in which certain properties have been allotted to the share of the petitioner Shri Antaryami Sahoo. This is a deed of family settlement in which there was an allotment of share prior to the execution of the deed. Law is well settled and fairly not disputed at the Bar that once there has been an oral partition or allotment of shares prior to the execution of the deed of family settlement, and subsequently a deed of family settlement has been executed between the parties specifying the allotment of shares, such deed of family settlement can be safely acted upon. From the deed of settlement of family properties, we find that some properties have been allotted to the share of Shri Antaryami Sahoo and the presumption is that he is in possession of the same.

5. The intention of the rule making authority in envisaging that there must be sufficient income by the person concerned, to realise from him the amount of loss caused to the Government. Law is well settled that a co parsoner has an interest over the joint family property constituted by several co parsoners. In the present case, the petitioner had definitely, <sup>an</sup> interest over the joint family prperty which has now been allotted to the shares of different co parsoners. Therefore, we are of opinion that one cannot say that the petitioner does not have a satisfactory income. <sup>Though</sup> Mr.Akhaya Mishra, learned Standing Counsel strenuously urged before us that the petitioner had never been selected, yet we find from the paragraph-16

of the counter which is stated as follows:

"Total four applications were received, a check list of which was prepared on 22.6.1992 on which the S.P.Os selected one Shri Antaryami Sahoo, who only submitted the required documents".

This is a clean admission by the respondents that the petitioner had been selected by the competent authority. We had the opportunity of perusing the relevant file submitted by Mr. Akhaya Mishra, learned Standing Counsel. We have found that the Superintendent of Post Offices, Cuttack South Division has passed specific orders on 29.6.1992 that the petitioner has been found to be suitable and selected. Once a particular person has been selected to a post, he cannot be deprived of his right unless and until there has been some gross violation of rules regarding his appointment. We find no irregularity to have been committed in the case of the petitioner's selection to the post of E.D.B.P.M., Balarampur Post Office. Therefore, we would direct that letter of appointment be issued in favour of the petitioner appointing him as E.D.B.P.M., Balarampur Post Office within 15 days from the date of receipt of a copy of this judgment. Thus the application stands allowed. No costs.

6. In view of the final disposal of this case, order dated 28.6.1993 to hold a fresh selection stands withdrawn.

T. G. Jindal  
MEMBER (ADMINISTRATIVE)

13 Aug 93

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 13.8.1993 B.K.Sahoo

K. S. Acharya  
VICE-CHAIRMAN

13.8.93

