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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 306 of 1993

Date of Decision: 14.7.1993

Mahakul Bauri

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)

14.7.93

  
VICE-CHAIRMAN

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Union of India & Others

Respondents

For the applicant:

M/s.D.P.Dhalasamant,  
Advocate

For the respondent:

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

...

C O R A M:

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

AND

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

...

JUDGMENT

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MR. K. P. ACHARYA, VICE-CHAIRMAN, This case came up for admission to day.

With the consent given by the counsel for both sides, we have taken up this matter for hearing, as it would be against the interest of justice to keep this matter unnecessarily pending.

2. Shortly stated the case of the petitioner is that he was initially appointed as an Extra Departmental Stamp Vender and in due course of time after turning out successful in an examination, he was appointed against the post of a Postman. Subsequently, vide order dated 26.5.1993, contained in Annexure-3, the Senior Superintendent of Post Offices, has cancelled the appointment of the petitioner and has given a declaration that the three incumbents mentioned in the said annexure are appointed to the said post.

3. We have heard Mr. D. P. Dhalasamant, learned counsel for the petitioner and Mr. Ashok Mishra, learned Standing Counsel. We have also perused the file produced by Shri J. Nayak, Complaint Inspector. It was told to us that the selection of the petitioner has been cancelled, because the total number of posts available <sup>was</sup> ~~was~~ <sup>Waye</sup> ~~was~~ <sup>by</sup> five; out of which one has to be given to the Scheduled Caste candidate, two posts are to be occupied by Scheduled ~~Tribe~~ <sup>Tribe</sup> candidates and two posts are to go to the general candidates. One, Shri G. Bidika, was given appointment against the post reserved for Scheduled Tribe candidate; and subsequently, the office found that Shri Bidika was a Scheduled Caste candidate, such post was given to Shri Bidika, and eventually, the <sup>the</sup> appointment of the petitioner was cancelled. It was

therefore submitted by Mr. Ashok Mishra, learned Standing Counsel that the order of cancellation is nothing but legal, and therefore, it should be sustained.

4. On the other hand, it was submitted by Mr. D. P. Dhalasaman learned counsel for the petitioner that for no fault on the part of the petitioner, his appointment has been cancelled; and this order should be quashed, because the petitioner has already acquired a right to the post. We have given our anxious consideration to the argument advanced at the Bar. Since the admitted case of the parties is that owing to the mistake committed by the departmental authorities, entire selection has been cancelled, we are unable to accept the submission made by Mr. Ashok Mishra, learned Standing Counsel, especially because for no fault on the part of the petitioner, he should be visited with the penalty of removal from service. Law is well settled and it was rightly and fairly not disputed at the Bar that a Scheduled Caste candidate can be appointed against the post reserved for a Scheduled Tribe and vice versa can also be made effective under the law. <sup>vide M. H. A. O.N. no. 1/4/62-SCT(1) dated 24.9.1962.</sup> Therefore, we do hereby quash the order passed by the competent authority cancelling the appointment of the petitioner Shri Mahakul Bauri to the post of a Postman, and we would direct his continuance in the said post, or reinstatement, if he has been relieved, within seven days with full back wages with effect from the date of removal. We have no objection if other suitable candidates are appointed against the existing post in order of merit against the suitable roster point. Thus the application stands allowed.

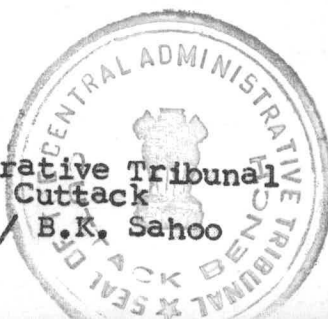
No cost.

  
MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal  
Cuttack Bench, Cuttack

dated 14.7.1993/ B.K. Sahoo

14.7.93



  
14.7.93  
VICE-CHAIRMAN