

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application Nos. 332/93, 462/93 & 464/93

Date of Decision: 15.9.1993

IN O.A.No. 332/93

Pitabas Das

Applicant (s)

Versus

Union of India & Others

Respondent (s)

IN O.A.No. 462/93

Sanjukta Mohanty

Applicant (s)

Versus

Union of India & Others

Respondent (s)

IN O.A.No. 464/93

Karunakar Babera

Applicant (s)

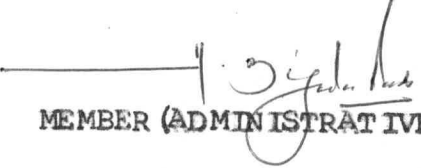
Versus

Union of India & Others

Respondent (s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *ND*
2. Whether it be circulated to all the Benches of *ND*
the Central Administrative Tribunals or not ?


MEMBER (ADMINISTRATIVE)

15/9/93
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application Nos.332/93,462/93 & 464/93

Date of Decision: 15.9. 1993

IN O.A.No.332/93 Pitabas Das Applicant

Versus

Union of India & Others Respondents

IN O.A.No.462/93 Sanjukta Mohanty Applicant

Versus

Union of India & Others Respondents

IN O.A.No.464/93 Karunakar Behera Applicant

Versus

Union of India & Others Respondents

IN O.A.No.332/93 For the applicant M/s.Devanand Misra
Deepak Mishra
A.Deo,R.N.Naik
B.K.Sahoo,
Advocates

IN O.A.No.462/93 For the applicant M/s.Ashok Mohanty
B.B.Patnaik
P.R.Dash
T.Rath,Advocates

IN O.A.No.464/93 For the applicant M/s.S.Kr.Mohanty
S.P.Mohanty,
Advocates

IN ALL THE OAs: For the respondents Mr.Ashok Mishra,
Sr.Standing Couhnel
(Central)

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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, We have heard all the cases mentioned above one after the other on merits. Since the prayer of all the petitioners in these cases related to the appointment to the post of Extra Departmental Branch Post Master,

Bharatpur Post Office, we would direct that this common judgment will govern all these three cases mentioned above.

2. The petitioner in all these three applications were applicants along with others for appointment to the post of E.D.B.P.M., Bharatpur Post Office. Petitioner Shri Pitabas Das, in Original Application No.332 of 1993 was appointed and took charge of the said post office. Some time later, vide Annexure-4 dated 28.6.1993, services of the petitioner Shri Pitabas Das was terminated under Rule-6. Hence this application has been filed with a prayer to quash Annexure-4 by the petitioner Shri Pitabas Das in Original Application No. 332 of 1993.

3. In Original Application No.462 of 1993, petitioner Sanjukta Mohanty prays for a direction to the opposite parties to give her appointment to the post of E.D.B.P.M. Br. of Bharatpur/Post Office because of the termination of services of Shri Pitabas Das.

4. In Original Application No.464 of 1993, petitioner Shri Karunakar Behera prays for a direction to the opposite parties to conduct fresh selection to the post of E.D.B.P.M. Bharatpur Branch Post Office and to consider the case of the petitioner.

5. In O.A.No.332/93, we have heard Mr.R.N.Naik, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel. In O.A. No.462/93, we have heard Mr.Ashok Mohanty, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel; and so also in O.A.No.464/93 we have heard Mr.S.P. Mohanty, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel.

6. During the course of argument, Mr. R.N. Naik, learned counsel for the petitioner in O.A.No. 332/93 strenuously urged before us that the termination of services of the petitioner Shri Pitabas Das under Rule-6 should be quashed because of non-compliance of the dictum laid down by Their Lordships of the Supreme Court in the case of K.I. Sehepherd vs. Union of India and others reported in AIR 1988 SC 686. Hon'ble Mr. Justice R.N. Mishra (as 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."

Hon'ble ^{Judge} Justice speaking for the Court quoted with approval the observations of Sarkaria (J) in the case of Swadeshi Cotton Mills v. Union of India Reported in AIR 1970 SC 2042 which runs thus:

"During the last two decades, the concept of natural justice has made great strides in the realm of administrative law. Before the epoch-making decision of the House of Lords in Ridge v. Baldwin. (1964 AC 40), it was generally thought that the rules of natural justice apply only to judicial or quasi-judicial proceedings; and for the purpose, whenever a breach of the rule of natural justice was alleged, Courts in England used to ascertain whether the impugned action was taken by the statutory authority or tribunal

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in the exercise of its administrative or quasi-judicial power. In India also, this was the position before the decision of this Court in Dr. Binapani Dei's case, (AIR 1967 SC 1269 (supra)); wherein it was held that even an administrative order or decision in matters involving civil consequences, has to be made consistently with the rules of natural justice. This supposed distinction between quasi-judicial and administrative decisions, which was perceptibly mitigated in Binapani Dei's case (supra) was further rubbed out to a vanishing point in A.K. Kariapak's case, AIR 1970 SC 150 (supra)

7. In view of the dictum laid down by Their Lordships of the Supreme Court in these judgments and in view of the admitted position that no notice was given to the petitioner Shri Pitabas Das calling upon him to show cause as to why his services shall not be terminated, we are of opinion that principles of natural justice has been violated. Therefore, the termination of the services of Shri Pitabas Das (petitioner in O.A. No. 332/93) is hereby quashed. The petitioner shall not be entitled to any back wages, but as an interim measure, we would direct that the petitioner will continue in the post of E.D.B.M., Bharatpur Branch Post Office, provisionally till the final selection in respect of appointment to the said post is made

8. Mr. Ashok Mishra, learned Standing Counsel contended that since one month pay has been given to the petitioner Shri Pitabas in lieu of the notice, the order of termination should not be quashed. It is directed that in case the petitioner is still continuing in the post in question despite the order/termination passed against him, then, he would return the one month salary which has been paid to the petitioner Shri Pitabas Das.

9. In view of the averments finding place in the counter in respect of other two cases, we are of opinion that the cases of Sanjukta Mohanty, ^{petitioner} in O.A. No.462/93 and Shri Karunakar Behera, petitioner in O.A.No.464/93 were not duly considered. Therefore, we would direct the Superintendent of Post Offices, Cuttack North Division to undertake another selection process for the post of E.D.B.P.M., Bharatpur Branch Office, in which, cases of Shri Pitabas Das (Petitioner in O.A.No.332/93), Sanjukta Mohanty (petitioner in O.A.No.462/93) and Shri Karunakar Bahera (petitioner in O.A.No.464/93) be considered along with other applicants, who had made their applications on previous date(s); and their suitability be adjudged, and he/she, whosoever is found to be suitable be appointed to the post of E.D.B.P.M. Bharatpur Branch Post Office. We hope and trust, the process for final selection should be completed within 60 days from the date of receipt of a copy of this judgment. Thus the application is accordingly disposed of. No costs.


MEMBER (ADMINISTRATIVE)

15 SEP 93


VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 15.9.1993/ B.K.Sahoo