



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK

Original Application No.500 of 1993

Date of decision : October 4, 1993

N arottam Lenka

....

Applicant

Versus

Union of India & Others

....

Respondents

(FOR INSTRUCTIONS)

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

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(H.RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

04 OCT 93

*Lev 4/10/93*  
(K.P.ACHARYA )  
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL  
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Original Application No.500 of 1993

DATE OF DECISION - OCTOBER 4, 1993

Narottam Lenka	...	Applicant
Vs.		
Union of India & Others	...	Respondents
For the Applicant	...	M/s. Deepak Misra, R.N.Naik A.Deo, B.S.Tripathy, P.Panda, D.K.Sahu, Advocates.
For the Respondents	...	Mr. Ashok Misra, Senior St. Counsel (Central).
For the Intervenor	...	Mr. M.R.Mohanty, Advocate

C O R A M :

THE HONOURABLE MR. K.P.ACHARYA, VICE- CHAIRMAN  
A N D  
THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN.)

JUDGMENT

K.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to the Opposite Parties to consider the case of the petitioner for the post of Extra Departmental Branch Post Master Odasingha.

2. Shortly stated the case of the petitioner is that he was an applicant for the post of Extra Departmental Branch Post Master, Odasingha alongwith many others. Alongwith his application he had filed the income certificate of properties standing in his name and also in the name of his father. His application was rejected and later the petitioner

has filed certificate regarding his income after he had purchased some properties in his name. Since his candidature was rejected on the ground of filing of income certificate in respect of the properties standing in the name of his father, this application has been filed with the aforesaid prayer.

3. This case came up for admission and hearing today. Mr. M. R. Mohanty learned counsel has entered appearance on behalf of the Intervenor Shri Bhagyadhar Pradhan.

4. We have heard Mr. R. N. Naik learned counsel appearing for the petitioner, Mr. Ashok Misra learned Senior Standing Counsel (Central) and Mr. M. R. Mohanty learned counsel appearing for the Intervenor.

5. Facts are practically admitted. The Petitioner had filed a certificate in respect of properties standing in his father's name and later he obtained certificate of income in respect of his own properties after he had purchased some properties in his name. Now the question remains for determination as to whether income from the father's property could be taken into consideration in order to determine the income of the applicant. In order to avoid future litigation on this subject we would make it clear that under the 'Hindu Law', son has an interest by birth in respect of the ancestral properties standing in the name of one's father though he has no right by birth.



over the personal acquisition of one's father's property. However, we would direct that in future whenever any person files a certificate in respect of the ancestral properties in the name of his/her father that should be considered. Income from properties which has been acquired by the father as a self acquisition should not be taken into consideration. Mr. M. R. Mohanty learned counsel appearing for the intervenor vehemently argued before us that once the petitioner had not <sup>complied</sup> ~~completed~~ with the conditions laid in the advertisement to file documents within the fixed date, no further indulgence should be given to the petitioner despite the fact that the petitioner had later filed a certificate in respect of the income from his own properties. In addition to the above, it was contended by Mr. Mohanty that the petitioner has not given any explanation far less to speak <sup>of</sup> ~~to~~ a reasonable explanation for the laches occurring on his part.

6. We have given our anxious consideration to the argument advanced at Bar. The Petitioner was under a bonafide impression that the income from his father's property would be sufficient to comply with the conditions laid in the advertisement. Noturing under such bona fide impression the petitioner had filed an application alongwith enclosures including the income certificate from his father's property within due date. Later having came to know that the appropriate authority



would not respect or attach any importance to the certificate in regard to the properties of his father, the petitioner has acquired certain property - relating to which the income certificate has been furnished. Mr. Mohanty strenuously objects to the condonation of delay. We are unable to accept the vehement argument advanced by Mr. Mohanty because the appointing authority has a right to extend the period fixed in the advertisement. If the appointing authority has such a right, we cannot deprive ourselves in passing a judicial order condoning the delay. Therefore, we would direct that cases of all the candidates who had applied for the post originally including that of the petitioner Shri Narottam Lenka and the case of the Intervenor Shri Bhagyadhar Pradhan be considered and whosoever is found to be suitable appointment order be issued in his/her favour. The selection process should be completed within 60 days from the date of receipt of a copy of the judgment.

7. We would request the Chief Post Master General to pay his attention to the observations made above permitting the authorities to consider the income of a particular applicant from the ancestral properties of his father and accordingly the Chief Postmaster General will be well advised to move his higher authorities for amendment of the rules.

8. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.



9. Send a copy of this judgment specially in the name cover of the Chief Post Master General, Orissa Circle, Bhubaneswar.

..... MEMBER (ADMINISTRATIVE) 04 OCT 93

VICE-CHAIRMAN

Central Admin. Tribunal,  
Cuttack Bench, Cuttack  
K. Mohanty/4.10.1993

