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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

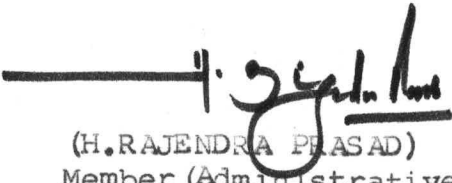
ORIGINAL APPLICATION NO: 620 OF 1993

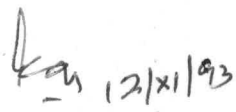
DATE OF DECISION: NOVEMBER 12, 1993

Sriram Panda ... Applicant
Vs.
Union of India & Others ... Respondents

(FOR INSTRUCTIONS)

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


(H. RAJENDRA PRASAD)
Member (Administrative)
12 NOV 93


(K.P. ACHARYA)
Vice-Chairman



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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 620 OF 1993

Date of decision: November 12, 1993

Shri Sriram Panda Applicant
Versus
Union of India & Others Respondents
For the Applicant M/s. B.B. Ratho, B.N. Rath
S.N. Mohapatra, K.R.
Mohapatra, S. Ghose,
P.K. Panda & A.K. Jethy,
Advocates.
For the Respondents Mr. Akshya Kumar Mishra,
Additional Standing Counsel
(Central)

C O R A M :-

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

A N D

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

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J U D G M E N T

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 issue an order of appointment on regular basis in his favour for the post of Extra Departmental Branch Postmaster of Ramchandrapur within the District of Ganjam.

2. Shortly stated the case of the petitioner is that he was functioning as an Extra Departmental Branch Postmaster for a very long time. The Permanent incumbent discharging the duties of Extra Departmental Branch Postmaster, Ramchandrapur having retired on superannuation, following the administrative instructions the competent authority appointed the petitioner to act



as an Extra Departmental Branch Postmaster of the said post office on provisional basis. in addition to his own duties as Extra Departmental Delivery Agent. While the matter stood thus, the competent authority has issued a notification inviting applications for consideration of suitability of different applicants for regular appointment to the post of Extra Departmental Branch Postmaster. Being aggrieved by the steps taken by the competent authority, the petitioner has filed this application with the aforesaid prayer.

3. This case came up for admission today. We did not like to keep this case, unnecessarily, pending as filling of the post of Extra Departmental Branch postmaster of the said post Office on regular basis may be delayed. Therefore, with the consent given by counsel for both sides, we have heard this case on merit and propose to dispose of the matter finally.

4. We have heard Mr. B. B. Ratho learned counsel appearing for the petitioner and Mr. Akshya Kumar Misra, learned Additional Standing Counsel (Central) on the merits of the case.

5. Mr. Ratho learned counsel appearing for the petitioner strenuously and vigorously argued before us regarding the administrative instructions issued by the Departmental authorities contained in page 74 of Swamy's compilation of Service Rules for Extra

Departmental Staffs in the Postal Department which runs



thus:

"When an E.D. Post falls vacant in the same office or in any office in the same place and if one of the existing EDDA prefers to work against that post, he may be allowed to be appointed against that vacant post, without coming through the employment exchange provided he is suitable for the post and fulfills all the required conditions".

Relying on this provision, Mr. Ratho learned counsel appearing for the Petitioner contended that there is no further scope left for the departmental authorities to invite applications for filling up of the post, in question, on regular basis as the petitioner had given his consent to work as E.D.B.P.M. expecting that this rule will work in his favour and he would be automatically regularised in the post of EDBPM, Ramachandrapur. We have no dispute with Mr. Ratho regarding his interpretation of this rule. But this is merely an administrative instruction which does not bind the courts or Bench from taking a different view in order to meet out social justice. Following the dictum laid down by Their Lordships of the Hon'ble Supreme Court that wider should be the zone of consideration for adjudicating the suitability of candidates for a particular post, this Bench has been consistently taken the view that the appointing authority, in respect of the post of EDBPM or EDDA should not only confined itself to the recommendation made by the Employment Exchange but the competent authority should invite applications from the open market so that the most suitable person can be



appointed. Despite the emphatic~~ad~~ argument advanced by Mr. Ratho learned counsel appearing for the Petitioner, we do not feel inclined to make a departure from the view already taken in several judgments in past directing the concerned authority to invite applications from the open market and consider the cases of <sup>such</sup> ~~both~~ <sub>by</sub> applicants alongwith the candidates sponsored by the Employment Exchange. In some cases in the past, we have also refused to accept the prayer made by those petitioners for automatic regularisation without their suitability being considered. Therefore, we do not feel inclined to make a departure from the view already taken in those cases in the past.

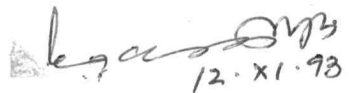
6. After giving our anxious consideration to the arguments advanced by Mr. Ratho and Mr. Mishra, we would ~~direct~~ that regular selection process be completed within 60 days from the date of receipt of a copy of this judgment. The appointing authority should issue requisition to the employment exchange to sponsor names of candidates fit for consideration (if not already done) and also invite applications from the open market and in case the petitioner is one of the applicants his case should be considered alongwith other candidates and after ~~after~~ adjudicating suitability of different candidates, whoever is found to be suitable, he/she may be appointed on regular basis to the post of EDBPM Ramachandrapur. We would say that due weightage should be given to the case of the petitioner regarding his



experience gained as EDDA and EDBPM of Ramachandrapur Branch Post Office. The appointing authority is at liberty to take his independent decision while adjudicating suitability of different candidates and till the final appointment order is issued, the petitioner should be allowed to continue as EDBPM of Ramachandrapur Branch Post Office.

7. Thus, the application is accordingly disposed of. No costs.

  
Member (Administrative)  
12 Nov 93

  
12. XI. 93  
Vice-Chairman

Central Admn. Tribunal,  
Cuttack Bench. K. Mohanty  
November 12, 1993.

