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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 622 of 1993

Date of Decision: 15. 4. 1994

Chandrakanta Barik

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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


MEMBER (ADMINISTRATIVE)

15 APR 94

 15.4.94
VICE-CHAIRMAN

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Respondents

For the applicant

Mr.D.P.Dhalasamant,
Advocate

For the respondents 1 to 3

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

For the respondents 4

M/s.Deepak Misra
R.N.Naik,A.Deo,
B.S.Tripathy,
P.Panda,D.K.Sahoo,
Advocates

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 Shri Chandra Kanta Barik prays for a direction to Opposite Party No.2, i.e. the Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar to conduct a proper enquiry to get the authenticity/accuracy of the Solvency/Income Certificate confirmed by the higher Revenue authorities before he sits over re-selection for ^{his} appointment.

2. Shorn of unnecessary details it would suffice to say that there arose a vacancy in the post of Extra

Yes

Departmental Branch Post-master of Davar Branch Post Office within the jurisdiction of S.D.I(P) Nimapara. Cases of several candidates were considered. Sri Gangadhar Pradhan was the petitioner in Original Application No. 477 of 1991 because he had not been selected in the said test. In the counter, filed in Original Application No.477/91, it was maintained by the opposite parties that the income/solvency certificate produced by Shri Gangadhar Pradhan was not a genuine - rather it was a manufactured one. The Bench, in its judgment dated 23.8.1993, passed in O.A.No.477 of 1991 held that the income/solvency certificated filed ^{by} Shri Gangadhar Pradhan was not a manufactured one and the Bench did not feel inclined to act on the bald assertion made on behalf of the opposite parties that the document(s) in question was a manufactured one. Hence the matter was sent back to the competent authority for reconsideration. While conducting the reconsideration process, Gangadhar has been appointed and the petitioner Shri Chandra Kanta Barik has been found to be unsuitable. Therefore, Chandrakanta has ^{kn}not come up before this Bench challenging the appointment of Shri Gangadhar Pradhan as E.D.BP.M. of Davar Post Office.

3. This case came up for admission and hearing to-day. We have heard Mr.D.P.Dhalasamant, learned counsel for the petitioner, Mr.Ashok Mishra, learned Senior Standing Counsel and Mr.B.S.Tripathy, learned counsel for the Opposite Party No.4(Shri Gangadhar Pradhan). Shri Brajaraj Mishra, Senior Superintendent of Post Offices, Bhubaneswar Division(present in the Court) had

rendered necessary assistance to the Court.

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4. We have given our anxious consideration to the argument advanced at the Bar. Mr.D.P.Dhalasamant, learned counsel for the petitioner very seriously submitted that it was absolutely wrong on the part of the appointing authority to have taken into consideration the documents which at one point of time was held to be a non-genuine/ manufactured document filed by Shri Gandhar Pradhan. This stand having been positively taken by the opposite parties in their counter filed in connection with O.A.No.477/91, it was no longer open to the same authority to again take into consideration the same manufactured document. We are unable to accept this contention of Mr.D.P.Dhalasamant, because the Bench came to a positive finding that the said document was not a manufactured one. In otherwords the Bench came to a conclusion that it is a genuine one.

Therefore, we find no illegality to have been committed by the competent authority to have taken into consideration the income/solvency certificate filed in connection with the selection gave rise to Original Application No.477/91. In our opinion the concerned authority was fully justified in taking into consideration these documents while adjudicating the solvency/income certificate of Gangadhar. Therefore, we find no merit in the aforesaid contention of Mr.D.P.Dhalasamant, learned counsel for the petitioner.

5. Next it was contended by Mr.D.P.Dhalasamant that the Collector and District Magistrate, Puri has requested

Shri A.K.Nayak, O.A.S., Tahasildar, Nimapara to conduct

an enquiry about the solvency of the said Gangadhar Pradhan. It was further contended by Mr. Dhalasamant that pending report received from the Tahasildar, Nimapara, the petitioner should be allowed to continue in the post in question and the matters should be finally decided according to the findings of the Tahasildar. We are unable to accept this contention of Mr. Dhalasamant, because the Collector is not a party before us. The Collector has, for some reason or the other directed to Tahasildar to conduct an enquiry, provided that copy of the hand-written letter said to be covered under DO No. 613/94 dated 7.3.94 is a genuine one. However, we do not feel inclined to express any opinion on this issue. It is left open. For the present we would hold that since the appointing authority has found Shri Gangadhar Pradhan to be suitable, we do not like to interfere with the decision taken by the appointing authority in the absence of any mala fide pleaded against the appointing authority. Therefore, we would direct that Shri Gangadhar Pradhan (OP No. 4) should take charge of the said post office positively on 22.4.1994 at 10.30AM from the petitioner Shri Chandrakanta Barik, failing which consequences of law would follow against Shri Chandrakanta Barik. The petitioner, Shri Chandrakanta Barik was present in the Court, and it has been explained to him in oriya language that he should hand-over charge of the Davaro Post Office positively on 22.4.1994 at 10.30AM to Shri Gangadhar

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Pradhan(OP No.4) failing which he will be liable to face a proceeding for contempt.

6. So far as Gangadhar Pradhan(OP No.4) is concerned, learned counsel for the petitioner undertakes to inform him(Shri Pradhan) that he should reach the said post office on 22.4.1994 at 10.30AM and take charge of the post office. Shri Brajaraj Mishra, Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar is directed to issue orders accordingly as early as possible.

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


MEMBER (ADMINISTRATIVE)
15 APR 94


15.4.94
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 15.4.1994/ B.K. Sahoo