

3

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 304 OF 1994.

Cuttack, this the 9th day of February, 2000.

KESHAB CHANDRA BASTIA. APPLICANT.

VRS.

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 Tribunal or not? NO.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

5

4

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 304 OF 1994.

Cuttack, this the 9th day of February, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

..

SHRI KESHAB CHANDRA BASTIA,
S/o. Sri Udayanath Bastia,
Aged about 36 years,
At/Po: Khatakhata, via-
Baghia Bahal, Dist. Baudh.

.... APPLICANT.

By legal practitioner: M/s. B. N. Rath, M. K. Panda, S. N. Mohapatra,
J. N. Rath, Advocates.

- VERSUS -

1. Union of India, Ministry of Communications represented through Director General Of Posts, Department of Posts, New Delhi.
2. Chief Postmaster General, Orissa, PMG Square, Bhubaneswar, Dist. Khurda.
3. Superintendent of Post Offices, Phulbani Division, At/Post/Dist. : Phulbani.
4. Postmaster Khatakhata, At/Post: Khatakhata, Dist. Baudh.
5. Employment Exchange Officer, At/Post/Dist. : Baudh.

... RESPONDENTS.

By legal practitioner: Mr. A. K. Bose, Senior Standing Counsel
(Central) for Res. Nos. 1 to 4.

By legal practitioner : Mr. K. C. Mohanty, Govt. Advocate for
Respondent No. 5.

.....

S. Som.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a declaration that all actions taken by the Postal Authorities for filling up of the post of E.D.B.P.M., Khatakhata should be declared illegal. Second prayer is for a direction to the Employment Exchange Officer, Boudh, Respondent No. 5 to send the name of the applicant to Respondent No. 3 for consideration of his case for the purpose of appointment to the post.

By way of interim relief, it was prayed that the process of selection should be stayed. On the date of admission on 23.5.1994, the prayer for interim relief was disposed of with a direction that any appointment made to the post of EDBPM, Khatakhata, shall be subject to the outcome of this case and the person so selected should be informed of this in advance.

2. Applicant's case is that he is an unemployed matriculate and he came across a notice in the notice Board of Khatakhata post office (Annexure-1) in which the Jr. Employment Exchange Officer, Boudh has directed the Postmaster, Khatakhata to circulate the vacancy of the post of EDBPM, Khatakhata by putting it in the notice Board and to inform the intending candidates to meet the Jr. Employment Exchange Officer on or before 16.5.1994 with relevant documents. In pursuance of this notice, applicant went to the office of the Junior Employment

6

2

Officer, Boudh on 11.5.1994 with all his documents. Jr. Employment Exchange Officer, Boudh refused to meet the applicant on 11.5.94 and intimated that names as required under Annexure-1, have already been sent to the Supdt. of Post Offices, Phulbani and there is no further chance of sending a list. On his returning to his village, applicant was surprised to find that another villager has been issued with a letter by Res. NO. 3 requiring him to apply for the post with proper documentation. This letter is at Annexure-2. Applicant has stated that this letter of supdt. of post offices, Phulbani has been issued on 3.5.1994 i.e. much before the date fixed by the Jr. Employment Exchange Officer, Boudh i.e. 16.5.1994 for sending names. In view of this, it has been averred by the petitioner that his chances of being sponsored for the post of EDBPM, Khatakhatia and for being considered for the post has been denied to him because of such action of the Junior Employment Exchange Officer, Boudh. On the context of the above facts, applicant has come up in this original application with the prayers referred to earlier.

3. Postal Authorities in their counter have opposed the prayer of applicant. They have indicated that the vacancy arose in the post on superannuation of the previous incumbent and the process of selection was initiated on 8.4.1994 placing requisition with the Dist. Employment Exchange, Phulbani and the Jr. Employment Exchange Officer, Boudh with a request to sponsor names within 30 days from the date of receipt of requisition at Annexure-1.

S/Som.

7

Junior Employment Exchange, Officer, Boudh in his letter dated 12.4.1994 requested the Respondent No.3 to send requisition in the prescribed proforma and accordingly, the prescribed proforma was received on 19.4.1994 from the postal Authorities. The Junior Employment Officer, Boudh in his letter dated 29.4.1994 sponsored names of three candidates. This was received in the Office of the Superintendent of Post Offices on 2.5.1994 and letter dated 3.5.1994 the candidates were asked to send the application in proper form with all necessary documentation. Postal Authorities have indicated that they are not aware as to what assurance the applicant was favoured with by the Respondent No.5 in the matter. They have stated that all actions have been taken with regard to the selection strictly in accordance with rules and instructions and in view of this, they have opposed the prayer of applicant.

9/2/94

4. Junior Employment Officer, Boudh, Respondent No.5 has filed a counter in which he has stated that on 11.4.94 he received a requisition from the Supdt. of Post Offices, Phulbani for sponsoring names for the post of EDBPM, Khatakhatia. He, thereupon asked the Postal Authorities to send the requisition in the proper form which was received by the Junior Employment Officer, Boudh, Respondent No.5 on 27.4.1994. On the very same day, Respondent No.5 addressed a letter to the Branch office at Khatakhatia to advise the candidates to come with documents to meet him. In this letter, inadvertently, the date

for meeting was given as on or before 16.5.1994. On 28.4.1994, Respondent No.5 received a letter from the District Employment Officer, Phulbani directing him to send names within the period of 30 days and accordingly on 29.4.1994, Respondent No.5 sponsored three names as were available on official record without any further loss of time. Respondent No.5 have further stated that applicant had not registered his name in the Employment Exchange. He came to the Employment Exchange for the first time on 11.5.1994 in connection with verification of his documents for the purpose of registering his name in the Employment Exchange. Respondent No.5 met the applicant. It has been averred by the Respondent No.5 that the applicant did not ask Respondent No.5 to forward his name to the Postal Authorities for this post. It has also been stated that he has taken action in accordance with rules and as per the instructions of the higher authorities.

SJM

5. We have heard Mr.S.K.Jethi on behalf of Mr.B.N.Rath, learned counsel for the applicant, Mr.A.K.Bose, learned Senior Standing Counsel appearing for the Postal Authorities and Mr.K.C.Mohanty, learned Government Advocate appearing for the Junior Employment Officer, Boudh, Respondent No.5 and have also perused the records.

9

6. Departmental instructions, in force, at the relevant point of time, provided that for filling up of the ED posts, names have to be called for from the Employment Exchange and if the Employment Exchange does not sponsor names or does not sponsor names in requisite number, within thirty days then public notice is to be issued inviting applications from the general public. In this case, requisition was placed with the Employment Exchange by the Postal Authorities in their letter dated 8.4.94 and therefore, names should have been sponsored within 30 days i.e. by 8.5.1994 so as to reach the Postal Authorities by that date. It is also relevant to note that from the notice at Annexure-1, it appears that at that time one of the conditions for filling up of the post was that the candidate should be a resident of the village Khatakhata. On getting the requisition in proper form, Respondent No. 5 issued notice to the Postmaster, Khatakhata directing him to put it in the notice Board and to ask the intending candidates to meet the Res. No. 5 on or before 16.5.1994. It has been mentioned by Respondent No. 5 in his counter that by inadvertently the date 16.5.94 has been mentioned in the notice. He subsequently, received a letter from his higher authority that names must be sponsored within a period of 30 days and accordingly, he checked up the records of the Employment Exchange and three names available in the Employment Exchange from that village were sponsored for the post. For sponsoring names through employment exchange authorities a person must register his name in the employment exchange.

S. J. M.

S. J. M.

In this case, applicant had not registered his name in the Employment Exchange before 11.5.1994. He admittedly got his name registered in the Employment Exchange on 11.5.94. There are instructions of the Employment Department regarding sponsoring of names of persons who have registered their names in the Employment Exchange. A person can not expect that on registering his name his name should be immediately sponsored for available vacancies. He has to wait for his turn. Every person has to wait for ^{his} ~~their~~ turn. In any case for the lapse, if any of Respondent No. 5, the Postal Authorities can not be held responsible and there is no cause of action against the Postal Authorities. The Postal Authorities have got the names from the Employment Exchange in time and have proceeded with the process of selection in which other persons are involved. As there is no fault on the part of those candidates as also the Postal Authorities, the prayer of applicant to quash the process of selection is held to be without any merit and is rejected. In case applicant has a grievance against the employment Exchange Officer for his action of omission and commission, he has other remedies against Respondent No. 5 and the remedies will not lie for quashing the selection and appointment of other persons who ^{is} ~~is~~ ^{are} not a party ^{is} ~~is~~ in this case and the interest of such person will be seriously affected. ^{is} ~~is~~ ^{are}

S. Jom.

S. Jom.

S. Jom.

S. Jom.

7. In the result, the Original Application is rejected but in the circumstances, without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE- CHAIRMAN

KNM/CM.