

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH;CUTTACK.

ORIGINAL APPLICATION NO. 53 OF 1995.
Cuttack, this the 5th day of December, 2000.

Sushil Kumar Mohanta.

....

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 .

(D. V. R. S. G. DATTATREYULU)
MEMBER (JUDICIAL)

Somnath Som
SOMNATH SOM
VICE-CHAIRMAN 2000

(5)

4

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 53 OF 1995.
Cuttack, this the 5th day of December, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND

THE HONOURABLE MR. D. V. R. S. G. DATTATREYULU, MEMBER (JUDL.).

Sushil Kumar Mohanta, Aged about 22 years,
Son of Kusadhar Mohanta, At/Po; Bhanda,
Via. Karanjia, District-Keonjhar.

: Applicant.

By legal practitioner : M/s. R.N. Naik, A. Deo, B.S. Tripathy,
P. Panda, P.K. Mishra, Advocates.

Vrs.

1. Union of India represented by its
Secretary in the Department of Posts,
Ministry of Communication, Dak Bhawan,
New Delhi.
2. Chief Postmaster General,
Orissa Circle, Bhubaneswar, Dist; Khurda.
3. Superintendent of Post Offices, Keonjhar Division,
Keonjhar, Dist. Keonjhar.
4. Sub Divisional Inspector (Postal), Champua,
Dist; Keonjhar.
5. Smt. Kabita Mohanta, wife of Pradeep Mohanta,
At; Kansara, Po; Bhanda, Ps; Karanjia,
Dist; Keonjhar.

: Respondents.

J. Som By legal practitioner : Mr. A.K. Bose, Senior Standing Counsel
(Central)

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, the applicant has prayed for quashing the appointment of Respondent No. 5 as Extra Departmental Branch Post Master, Bhandra Branch Post Office and pass appropriate orders in the facts and circumstances of the case.

2. Departmental Respondents have filed counter opposing the prayer of the applicant. Private Respondent was issued with notice and she received the notice on 3.2.1995 but she had not appeared nor filed counter.

3. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case.

4. The admitted position is that a vacancy in the post of EDBPM, Bhandra Branch Post Office occurred due to superannuation of applicant's father one Haldhar Mohanta. Haldhar Mohanta the EX-EDBPM challenged his superannuation in Original Application No. 26 of 1994 which was disposed of in order dated 9.1.1995. In that application, Haldhar Mohanta, the father of the applicant had stated that his correct date of birth should be taken as 23-11-1931. Even going by this date of birth, the regular vacancy would have arisen in the post of EDBPM in 22-11-1996. In the case filed by the applicant's father no stay order was given by this Tribunal and the process of selection was taken up and Respondent No. 5 was selected. When the matter was called learned counsel for the applicant and his associates were absent. No request has also been made on their behalf seeking adjournment. As this is a 1995 matter where pleadings have been completed long

ago, it is not possible to drag on the matter indefinitely. We have, therefore, heard Mr. A.K. Bose, learned Senior Standing Counsel appearing for the Departmental Respondents and have also perused the records.

5. Applicant has challenged the selection of Respondent No. 5 on different grounds which are discussed below.

6. The first ground urged by the applicant is that initially the names were called for from the Employment Exchange and in response to which applicant's name was sponsored and he submitted his detailed application with necessary documentation but selection was not completed and again applications were invited by the Departmental Authorities only to make room for the selected candidate, Respondent No. 5. Departmental Respondents in their counter have stated that in response to the requisition to the Employment Exchange, 19 candidates were sponsored. Ultimately, out of which 6 candidates filed applications. Out of these 6 candidates, the candidature of three candidates were rejected as one did not file any income certificate and other two filed income certificate in the name of their father. The documents of three candidates were sent for verification and it was found that the applicant was not in possession of any landed property and the sale deed furnished by the applicant was not a valid one because the seller of the land was not the actual owner of the land. The candidature of other two candidates were also rejected as they do not have any independent income from landed property. Thereafter, public notice was issued and in response to which seven candidates including applicant and Respondent No. 5 filed their applications. From the above it is seen that the averments made by the Departmental Respondents in not finalising the selection on the basis of names sponsored by the employment

Jm

Exchange are genuine and therefore, this ground for canceling the selection of Respondent No.5 is held to be without any merit and is rejected.

7. The second ground urged by the applicant is that Respondent No.5 who is a lady is married in village Kansara and has nothing to do with the post village. The requirement of ^{residency in} the post village has been down away with and the rules now *SDM* required what the selected candidate may belong to any village but he/she should be prepared to take up residence in the post village and to provide rent free accommodation for holding the post office. In view of this, this submission is also held to be without any merit and is rejected.

8. The third ground urged by the applicant is that the father of Respondent No.5 is working as EDMC Rumanaguda Branch Post Office and in that capacity he will be required to exchange mails with EDBPM, Bhandra and if the Respondent No.5 is appointed to that post she will have official dealing with her father and therefore, on this ground he has challenged the selection of Respondent No.5. This contention is also without any merit firstly because the father of Respondent No.5 is engaged as EDMC in another Branch Office and not in the Branch Post office in which Respondent No.5 has been appointed as EDBPM. The Hon'ble Supreme Court in the case of BALIRAM PRASAD VRS . UOI AND OTHERS reported in AIR 1997 SC 637 have held that candidature of a meritorious candidate can not be rejected solely on the ground that his near relations is working in the same office. Such action has been decided by the Hon'ble Supreme Court to be violative of Article 14 and 16 of the Constitution. In any case, in the instant case the father of Respondent No.5 is working in

another Branch Post Office and not in the Branch Post Office, where Respondent No.5 has been appointed. This contention is also, therefore, held to be without any merit and is rejected.

9. Departmental Respondents have pointed out that Respondent No.5 has got 55.33% marks in the Matriculation examination whereas applicant has got 54.57% marks. Instructions of DG Posts clearly provide that amongst the eligible candidates, the person who has got highest percentage of marks in the matriculation should be taken to be more meritorious. In view of this, we hold that the Departmental Respondents have rightly held Respondent No.5 to be more meritorious and her appointment has been rightly done.

10. In the result, therefore, we hold that the Original application is without any merit and the same is rejected. No costs.

(D. V. S. G. DATTATREYULU)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *2/10*

KNM/CM.