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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 118 OF 1996.

Cuttack this the 30th day of June, 1999.

Chandrakanta Barik.

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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 Tribunal or not? *No.*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
30.6.99

30.6.99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 118 OF 1996.

Cuttack this the 30th day of June, 1999.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
&
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

....

Chandrakanta Barik,
Ex-Branch Postmaster,
Davoro, Dist. Puri.

....

Applicant.

By legal Practitioner: Mr. D. P. Dhalsamant, Advocate.

-Versus-

1. Union of India represented through
Chief Postmaster General,
Orissa Circle, Bhubaneswar, Dist. Khurda.

2. Senior Superintendent of Post Offices,
Bhubaneswar, Dist. Khurda.

3. Gangadhar Pradhan, EDEPM, Davor,
Ps. Gop, Dist. Puri.

....

Respondents.

By legal Practitioner: Mr. Ashok Mohanty, Senior Standing
Counsel (Central).

By legal Practitioner for Res. No. 3: Mr. A. Routray, Advocate.

O R D E R

MR. G. NARASIMHAM, MEMBER (JUDICIAL):

Applicant, Chandrakanta Barik, was initially selected and appointed as E.D.BPM, Davor Branch Post Office on 20.9.91. His appointment was challenged by one Gangadhar Pradhan, Res. No. 3, who was one of the candidates for that post. In Original Application No. 477 of 1991 by order dated 23-9-1993, this Tribunal quashed the order of appointment of applicant and directed for re-selection (Annexure-1) among the candidates applied for that post at the relevant time. In the re-selection Gangadhar Pradhan, Respondent No. 3, was selected and appointed. Applicant then moved this Tribunal in Original Application

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No. 622 of 1993 praying therein to direct the Respondents to conduct proper enquiry and get the authenticity/accuracy of the solvency/income certificate of Respondent No.3. This Tribunal, while disposing of that Original Application, directed the applicant to hand over the charge of the post to Respondent No.3 (Annexure-3). Accordingly, Gangadhar Pradhan, Respondent No.3 joined in that post and has been continuing. These facts are not in controversy.

The case of applicant is that thereafter, pursuant to the direction of the Collector, Puri, Sub Collector, Puri reviewed the Solvency certificate issued by Tahasildar, Nimapara and in this review, (Solvency Misc. Case No.9/95), the Sub Collector held that Shri Gangadhar Pradhan did not own any land or immovable property and accordingly, cancelled the solvency certificate issued by the Tahasildar, Nimapara. He files a Xerox copy of the order dated 13.9.1995 of the Sub Collector, which is marked as Annexure-4. On the basis of this order of the Sub Collector, applicant represented to Respondent No.2 i.e. Senior Superintendent of Post Offices, Bhubaneswar on 6.10.1995 to cancel the appointment of Gangadhar Pradhan, Respondent No.3 and to restore the appointment of the applicant as he was duly selected (Annexure-5). He also sent a reminder in Annexure-6 but without any effect.

This application, has, therefore, been filed with a prayer to direct the Respondents to restore the applicant to that post with all other consequential benefits.

2. Respondent No.3 though entered appearance, had not filed any counter. Departmental Respondents opposed the prayer of the applicant stating that simply on the basis of the order of the Sub-Collector, appointment of Respondent No.3

can not be terminated without initiating a process and without giving him an opportunity of being heard in the matter. The matter is under correspondence with Tahasildar Nimapara and Sub Collector, Puri. Even then, according to Departmental Respondents, applicant will not be entitled to be restored to service automatically since his appointment was quashed by this Tribunal.

3. We have heard Mr. D. P. Dhalsamant, learned counsel for applicant and Mr. Ashok Mohanty, learned Senior Standing Counsel appearing for Respondents. Also perused the records.

As learned counsel for Respondent No. 3 was absent on the date of hearing, he was given opportunity to file written note of submission if any but ^{imply} instead, of that, no written note of submission has been filed.

4. The relief claimed by applicant, as earlier indicated, is to direct the Respondents to restore the applicant to his earlier employment to the post. Question for such restoration will arise only after the post becomes vacant. The post will become vacant when the existing incumbent i.e. Respondent No. 3 vacates the post either by resignation or removal. We agree with the version of the Department that simply on the basis of the order of Sub Collector, cancelling the solvency/income certificate issued by Tahasildar, Nimapara issued in favour of Respondent No. 3, his appointment can not be straight-away terminated. Respondents as rightly contended by them, can strictly apprise the solvency of Respondent No. 3 even after ignoring the properties in respect of which Tahasildar, Nimapara issued the Certificate. Even otherwise, Respondent No. 3 has to be given an opportunity to have his say

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in the matter before the Department takes any decision on the issue.

Even assuming the service of Respondent No.3 is terminated because of obtaining a false solvency certificate from the Tahasildar, Nimapara, applicant can not automatically be restored to that post because in OA No. 477 of 1991, where the applicant was Respondent No.4, this Tribunal quashed his appointment.

5. In view of the discussions made above, we find not merit in this Original Application which is accordingly dismissed but in the circumstances, there shall be no order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
20.6.99

20.6.99
(G. NARASIMHAM)
MEMBER (JUDICIAL)