

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

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ORIGINAL APPLICATION NO. 310 OF 1998
Cuttack this the 3rd day of May, 2000

Jugal Kishore Pal

...

Applicant(s)

-VERSUS-

Union of India & Ors.

...

Respondent(s)

(FOR INSTRUCTIONS)

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

L.M.
(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

3.5.2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 310 OF 1998
Cuttack this the 3rd day of May, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SCM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G. NARASIMHAM, MEMBER (JUDICIAL)

...

Jugal Kishore Pal,
aged about 35 years
Son of Kapil Charan Pal,
of Village - Kalinga (Bandhanali)
PO: Kalingapal,
District : Dhenkanal

... Applicant

By the Advocates

M/s. A.R. Dash
N. Lenka
N. Das

-VERSUS-

1. Union of India represented through
the Chief Post Master General
Orissa Circle, Bhubaneswar
2. Superintendent of Post Office
Dhenkanal Division, Dhenkanal
3. Ranjan Kumar Pal,
S/o. Sudhakar Pal
at Kalinga, PO: Kalinga Pal
District - Dhenkanal

...

Respondents

By the Advocates

Mr. A.K. Bose
Sr. Standing Counsel
(Res. 1 and 2)
Mr. T. Rath
(Res. 3)

...

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has **prayed** for quashing the appointment given to Respondent No.3 to the post of Extra Departmental Branch Post Master, Kalingapal Branch Office and to give appointment to the applicant in place of Res.3 along with all service benefits.

2. For the purpose of deciding this Application it is not necessary to go into too many facts of this case. The admitted position is that for the post of Extra Departmental Branch Post Master, Kalingapal, the cases of the applicant, Respondent 3 and **certain** other persons were considered by the departmental authorities. Originally one Shri Chaitanya Pal, who was selected refused to accept the appointment. Thereafter respondent 3 was selected. The grievance of the applicant is that he has got 45.08% marks in the Matriculation examination whereas the selected candidate Res.3 has got 40.04% marks, but ignoring his case Res.3 has been selected.

3. The departmental respondents in their counter have pointed out that the applicant had given a list of landed properties along with Patta for Khatian No.115/97 of Balanga Village. At the time of verification Tahasildar reported in his letter at Annexure-R/3 that land in this Khatian No.115/97 ^{revenue} ^{as per} in favour of the applicant has been abated and the land ~~xx~~ stands no more in the name of the applicant. On that ground the applicant's candidature was rejected and Respondent 3 was selected. In the context of the above facts the departmental respondents have opposed the prayer of the applicant.

4. Respondent 3 in his counter has stated that the

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applicant's earning cannot be Rs.30,000.00 annually from A.O.32 Dec. land as has been mentioned in the income certificate produced by the applicant. Moreover, it has been reported that Mahanadi Coal Fields Ltd., have acquired the land of which Patta has been given by the applicant and therefore, applicant's candidature has been rightly rejected.

5. Heard Shri A.R.Dash, learned counsel for the petitioner, Shri A.K.Bose, learned Sr.Standing Counsel for Res. 1 and 2 and Shri T.Rath, learned counsel for Res.3 and also perused the records.

6. It is submitted by the petitioner that subsequently Tahasildar, Talcher had written a letter dated 5.5.1998 addressed to S.D.I.(P) indicating that the land comprising in Khatian No.115/97 has not been acquired by Mahanadi Coal Fields and therefore, it is submitted by the petitioner that his candidature was rejected on the basis of a wrong report submitted by the Tahasildar. Learned counsel for Res.3 has submitted that from this report at Annexure-7 it does not that appear the land stands recorded in the name of the applicant. It is also submitted by Respondent 3 that he has taken the loan under the Prime Minister Rojgar Yojana for self-employment whereas Res.3 is unemployed and therefore he should be given preference over the applicant. On the basis of Annexure-3 it is submitted by Shri Rath that Annexure-7 is not/genuine document as it does not bear the signature of the Tahasildar with Stamp. On the basis of the above pleadings and submissions of learned counsel for both sides, it is seen that the departmental respondents in their counter have not denied the genuineness of Annexure-7. In view of this it is quite clear that the candidature of the applicant was rejected on the

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basis of the report given by the Tahasildar that the land in respect of Khatian No. 115/97 does not stand recorded in the name of the applicant. In view of this we hold that the selection process cannot be sustained and therefore, process of selection for the post of E.D.B.P.M., Kalingapal B.O. is quashed

7. The second prayer of the applicant is for direction to departmental authorities to appoint him to that post. We find from the check sheet at Annexure-R/1 annexed to the counter of the departmental respondents that there are some other candidates who have got higher percentage of marks than the applicant. For example the candidates placed at Sl. Nos. 41 and 9 have secured 64% and 64.9% marks respectively. Their candidatures were rejected at the time of original selection on the ground that they had not submitted the required documents. But from the check sheet it does not appear as to what were the nature of documents which were not submitted by these candidatures. In any case now that the selection process has been quashed and a new document issued by the Tahasildar on 5.5.1998 in favour of the applicant is to be taken into consideration by the departmental authorities it is only fair that other candidates in the check sheet should also be given a chance to submit the missing documents, if any, and thereafter the departmental authorities should conduct a fresh selection strictly in accordance with merits confining the selection process amongst the candidates whose names have been mentioned in the check sheet vide Annexure-R/1.

The O.A. is disposed of as above, but no order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO//