

4
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 367 OF 1998
Cuttack this the 25th day of March, 1999

(PRONOUNCED IN THE OPEN COURT)

Prakash Kishore Hial

Applicant(s)

-Versus-

Union of India & Others

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*.

(Signature)
(G.NARASIMHAM)
MEMBER(JUDICIAL)

(Signature)
(SOMNATH SOM)
(VICE-CHAIRMAN)
25.3.99

5

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.367 OF 1998
Cuttack this the 25th day of March, 1999

CORAM:

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

...

Sri Prakash Kishore Hial,
aged about 33 years,
S/o. Sri Mena Hial,
At/Po: Bengumunda,
Via: Kantabanji,
Dist: Bolangir,
Pin: 767040

...

Applicant

By the Advocates : M/s.P.V.Ramdas
P.V.B.Rao

-Versus-

1. Union of India
represented by the
Chief Post Master General,
Orissa Circle,
Bhubaneswar-751001
2. Superintendent of Post Offices,
Bolangir Division,
Bolangir-767001

...

Respondents

By the Advocates : Mr.A.K.Bose,
Sr.Standing Counsel
(Central)

...

J. J. M.

ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 5.8.1994 (Annexure-3) and order dated 20.4.1995 (Annexure-4) informing him that his selection for appointment to the post of Time Scale ^{Postal} Assistant has been cancelled because, in course of verification of his character and antecedents, it was found that he was involved in Banganmura P.S. Case. He has also prayed for a direction to Respondent No.2, viz., Superintendent of Post Offices, Bolangir Division to give him a hearing to state his case before a final view is taken in the matter of cancelling his appointment.

2. The facts of this case according to petitioner are that he was selected for the post of Time Scale Postal Assistant and was sent for training at Postal Training Centre at Darbhanga commencing from 4.7.1994. While he was undergoing training, he was informed in letter dated 5.8.1994 (Annexure-3) that his selection for appointment as Time Scale Postal Assistant has been cancelled because of suppression of facts in regard to his involvement in Banganmura P.S. case dated 29.6.1992. Respondent No.2 in another letter dated 20.4.1995 informed the applicant that as the Criminal Case has been pending against ~~this~~ his name has been removed from the selection list of candidates for appointment as T.S. Postal Asstt. The applicant's case is that this criminal case was started because of political rivalry in the village and the learned Judicial Magistrate(1st Class), Kantabanji in order dated

S. Som.

11.11.1997 (Annexure-7) has allowed withdrawal of prosecution of this case and acquitted the accused persons. It is also mentioned by the learned Judicial Magistrate that the case appears to have been based on political rivalry and in the larger public interest, withdrawal of prosecution has been allowed. In the context of the above facts, the petitioner has come up with the prayers referred to earlier.

3. The respondents in their counter have submitted that the applicant was provisionally selected for the post of Postal Assistant, Bolangir Division and was asked to file requisite documents. In the Attestation Form which is at Annexure-R/2, against Column No.12, the applicant had indicated that no case is pending against him in any Court of Law and as this averment of the applicant was false, the impugned orders at Annexures-3 and 4 have been passed. The respondents have also mentioned that they are not concerned about the fate of the criminal case against the applicant, but of the fact that he deliberately and knowingly had furnished false information in the Attestation Form suppressing the fact that a criminal case was pending against him. In view of this the respondents have opposed the prayer of the petitioner.

4. We have heard Shri P.V.Ramdas, learned counsel for the petitioner and Shri A.K.Bose, learned Senior Standing Counsel appearing for the respondents and have perused the records.

5. The petitioner has also taken a plea in the Original Application that his father had two wives and

his step-mother has a son, who is having the same name as that of the applicant and this criminal case is pending against his elder brother(son of the step-mother) and not against him. It is seen from the counter that this point has been thoroughly enquired into by the departmental and authorities through Police that name of the brother of the petitioner is Kishore Hial whereas the name of the petitioner is Prakash Kishre Hial, who ~~was~~ involved in the criminal case. Therefore, contention that two brothers are having the same name cannot be accepted and the same is rejected. As regards the fact of deliberate suppression of facts with regard to criminal case and prayer of the petitioner for giving an opportunity of being heard in the interest of justice to purforth his case before the competent authority and thereafter, as per law orders should be passed, we note that these two orders, viz. Annexure-3 and 4 have been passed without affording an opportunity to the applicant to show cause and/or personal hearing. In view of this, this Original Application is disposed of with a direction to the petitioner that he will file a representation before Res.2 seeking personal hearing to purforth his case within a period of two weeks from to-day and Respondent No.2 is directed to give a personal hearing to the petitioner and consider his representation to be filed by him and dispose of the same keeping in view the observation of learned Judicial Magistrate(1st Class) in the above Criminal Case, within a period of 60 days from the date of receipt of such representation. We make it clear that we are making no comment about the validity or

✓ J. S. M.

otherwise of two orders passed vide Annexures-3 and 4. We also express no opinion on the merits of the representation to be filed by the petitioner as directed above. Respondent No.2 will be free to dispose of the said representation strictly in accordance with rules and according to his best judgment after giving the applicant a personal hearing within the time indicated above.

Original Application is disposed of as above, but without any order as to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
23.3.99