

12

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK



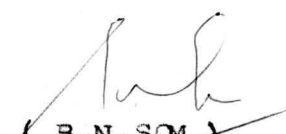
Original Application No. 434 of 1998  
Cuttack, this the 28th day of January, 2005

Malaya Kumar Samal ..... Applicant  
Vs  
Union of India & Others ..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? Yc
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? 79

  
( M.R. MOHANTY )  
MEMBER (JUDICIAL)

  
( B.N. SGM )  
VICE-CHAIRMAN

13

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK



Original Application No. 434 of 1998  
Cuttack, this the 28th day of January, 2005

CORAM :

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HONIBLE SHRI M.R.MOHANTY, MEMBER (J)

.....

Shri Malaya Kumar Samal, aged about 22 years, son of Biswamber Samal, village Kurumitha, P.O. Hatura, P.S. Hindol, Dist: Dhenkanal.

..... Applicant

By the Advocates

-

M/s. J.K.Rath, P.K.Das, J.P.Pati,  
B.N.Sarangi, N.C.Das.

Vs

1. The Union of India, represented through the Secretary, Ministry of Post and Telegraph, Dakatar Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle, Orissa, Bhubaneswar, Dist. Khurda.
3. Superintendent of Post Offices, Dhenkanal Division, At/P.O./P.S./Dist. Dhenkanal.
4. Sub-Divisional Inspector of Post Offices, Angul, East Sub Division, At/P.O./P.S./Dist. Angul.
5. Shri Bibeka Nanda Pradhan, son of Sarbeswar Pradhan, At/P.O. Hatura, via Hindol, Dist. Dhenkanal.

..... Respondents

By the Advocates

-

Mr. U.B.Mohapatra (SSC) .

.....

ORDER

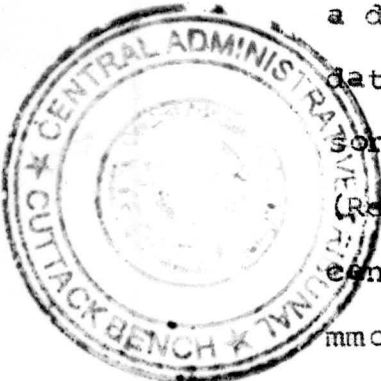


SHRI B.N.SOM, VICE-CHAIRMAN

Shri Malaya Kumar Samal has filed this O.A. challenging non-consideration of his case for appointment to the post of Extra Departmental Branch Post Office of Hatura Branch Post Office and appointment of a person in that post having less merit than his. He has sought for direction to be issued to the Respondents to reconsider his case of appointment to the said post by quashing the order of appointment of Respondent No.5, the selected candidate.

2. The facts of the case, in short, are that the applicant had applied for the post when the vacancy notification was issued by the Respondents on 2.3.93. It is his case that he fulfilled all the eligibility conditions for the appointment to the post and was the most meritorious candidate among those who had applied for the said post. He has further submitted that although he was informed that he would be called for interview to be held on 15.4.93, the said interview was actually conducted on 20.4.93. According to him there were five persons in the zone of consideration and among them he had secured the highest marks in matriculation examination. While he was waiting for receipt of the letter of appointment he came to know that Respondent No.5 who was son of an ex-E.D.B.P.M. had been selected by way of manipulation and favouratism. He has also submitted that although the Tehasildar had issued an income certificate to the tune of Rs. 48000 in his favour,

none the less as the Patta(R.O.R.) submitted by him was recorded in the joint name of his three brothers, his case was rejected by the Respondents.



3. The Respondents have contested the O.A. by filing a detailed counter. They have submitted that out of 40 candidates who had responded to the advertisement and those sponsored by the Employment Exchange, one Shri Manoj Kumar Pradhan (Respondent No.5) was selected on merit; but as the said candidate expressed his inability to provide rent free accommodation for the post office in the post village, the next meritorious candidate in the list i.e. Shri Bushmanta Kumar Sahoo of Kantimili village was offered appointment. But, he also failed to arrange residence for himself. Thereafter, an open advertisement was issued on 2.3.98 inviting applications from the intending candidates to be received on or before 23.3.98. In response to the said notification seven candidates including the applicant applied for the post. In the counter, they have disclosed that the applicant could not be selected as he did not submit any proof of own land in his own name and that he failed to provide rent free accommodation for functioning of the post office. It is the submission of the Respondents that the applicant in his application dated 20.4.98 had categorically stated that he was not agreeable to provide rent free accommodation for running of the post office. It is due to his inability to fulfill, these two important eligibility conditions for appointment to the post, his candidature had suffered and the Respondents selected Respondent No.5 from

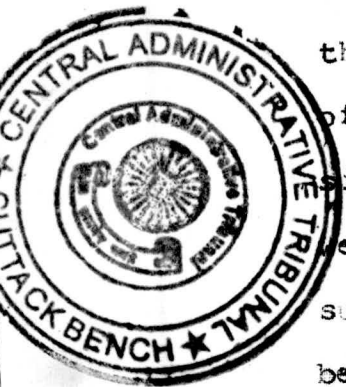
h

the post village as <sup>he</sup> fulfilled all the conditions for appointment to the post.

4. We have heard the Ld. Counsel for both the parties and have also perused the records placed before us.

5. The Ld. Counsel for the applicant stoutly contested the averment made by the Respondents in their counter that the applicant had declined to provide house for functioning of the post office as it is alleged. He also denied that the signatures appearing in the application form (Annexure-R/4) were his signatures. The Respondents, on the other hand, submitted that the applicant was requested by them to appear before the Sub Divisional Inspector (Postal) Angul East Sub Division, Angul, for verification of the documents including Annexure-R/4, submitted by him and that the said applicant during enquiry admitted to have written the application form (Annexure-R/4) in his own hand and had also admitted his signature available at the bottom of the Annexure-R/4. He had also made the said averment in writing, by his written statement dated 8.3.04 submitted during enquiry.

6. As the Ld. Counsel for the applicant had denied the signatures appearing on the application at Annexure-R/4, we had directed the Respondents to refer the matter to Government handwriting expert and obtain his opinion in the matter. Accordingly, they forwarded a copy of the application form (Annexure-R/4), as also the signature of the applicant appearing in the Original Application as well as specimen



B

signatures of the applicant obtained in blank papers duly attested by the functionaries of the Respondent department and witnessed by independent persons. The Respondents having obtained the opinion of the Government Examiner, Directorate of Forensic Science, Ministry of Home Affairs, Kolkata, submitted copy of the said opinion by their memo dated 15.12.04. In the opinion of the Government Examiner, the signatures appearing on Annexure-R/4 as well as the signatures appearing below the verification at page 9 and 7 of the O.A. and the specimen signatures appearing in the 5 blank sheets, collected by the postal authorities in presence of the independent witnesses are all written by one and the same person. A copy of this memo dated 15.12.04 was also shown/served on the applicant. The Id. Counsel for the applicant at the end conceded that the signatures appearing on the application form(Annexure-R/4) though belong to the applicant, it is not correct to state that the form was filled up by the applicant in his own hand.

7. Having regard to the all these facts and circumstances of the case, the opinion of the Government Examiner of Documents, we are unable to accept the argument placed before us by the Id. Counsel for the applicant, in view of the written statement which had been submitted by the applicant at Annexure-R/6 way back on 8.3.04 wherein he had admitted as follows :

"I have given my consent while providing house for post office and it was attached to my

2



application form sent. I have filled up all columns but the column for providing house was not filled up. (Emphasis supplied)

In that column the writing 'No' was not written by me. I had signed on the bottom of the application form."

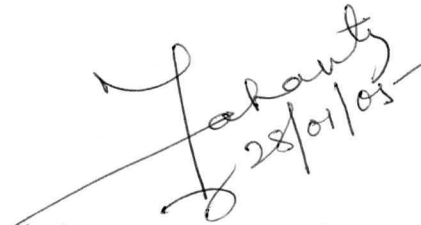
8. We have perused the application form (Annexure-R/4) and we are of the opinion that the position taken by the applicant that he had filled up the application form excepting Column 4(g) of the form with regard to providing rent free accommodation for functioning of the post office **is not tenable.** If it is accepted that he did not fill up Column 4(g) his candidature was liable to be rejected. The Respondents have argued that they had found his candidature not acceptable on two grounds. Firstly, that he did not have property in his own name, i.e. he failed to fulfill the condition that he had independent source of livelihood. Secondly, that he had not agreed to provide rent free accommodation for running of the post office. Even if, for argument's sake it is accepted that he left the Column 4(g) unfilled, still his candidature was lacking in merit because he could not prove that he had independent means of livelihood because he did not have landed property in his own name. Having landed property in his own name being an essential condition for appointment as EDBPM/GDSBPM, his candidature was liable to be rejected. However, it is not a credible story that the word 'No' appearing in Column 4(g) was not written by him for the reasons we had stated earlier.




19

9. In the conspectus of the facts of the case, we are of the opinion that non-selection of the applicant for the post can not be assailed on any of the grounds taken by the applicant. Further, in terms of the vacancy circular dated 2.3.98 (Annexure-R/3), the application not properly filled was liable to be rejected and if it is his case, that he left the application form unfilled in some respect, which was crucial for considering his eligibility for the post, the applicant does not have any grievance to ventilate.

10. Accordingly, this O.A. is disposed of being devoid of merit. No costs.

  
( M.R. MOHANTY )  
MEMBER (JUDICIAL)

  
( B.N. SOM )  
VICE-CHAIRMAN

RK/SD