

4
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.374 OF 1999
Cuttack this the 4th day of May, 2000

Surendranath Mohanty ... 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*

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
5.2.2000

5
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 374 OF 1999
Cuttack this the 4th day of May, 2000

CORAM:

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

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Sri Surendra Nath Mohanty
S/o. Late Raghunath Mohanty
aged 34 years, previously
working as E.D.D.A./M.C. Ambagam,
At/PO: Digapahandi, Sub-Post Office,
PIN 761 012, Dist: Ganjam

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Applicant

By the Advocates

Mr. C.M.K. Murty

-VERSUS-

1. Union of India represented by the Post Master General, Orissa, Bhubaneswar, Dist: Khurda
2. The Superintendent of Post Offices At/PO: Berhampur (Ganjam) Division Berhampur, Dist: Ganjam
3. Sub-Divisional Inspector of Post Offices, Digapahandi, Sub-Division, Digapahandi
4. Sri Sai Prasad Maharana, S/o. Sri Bebaraj Maharana Vill:Chanchalapalli, PO: Chudanagar, Via:Digapahandi PIN: 761012, Dist: Ganjam

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Respondents

By the Advocates

Mr. S. Behera
Addl. Standing Counsel
(Central)

J. Jm.

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2
O R D E R

MR .SOMNATH SOM, VICE-CHAIRMAN: In this application the petitioner has prayed for quashing the order dated 15.6.1999 (Annexure-3), terminating the applicant's service as E.D.D.A./M.C., Ambagam, as also the order dated 18.7.1999 (Annexure-4) appointing Respondent No.4 to that post. His second prayer is for issue of direction to departmental respondents to continue the applicant in the above post along with all service benefits.

2. The departmental respondents have filed counter opposing the prayer of the applicant. Respondent No.4 was issued with notice, but he did not appear nor filed any counter.

3. We have heard Shri C.M.K.Murty, learned counsel for the applicant and Shri S.Behera, learned Addl .Standing Counsel appearing for the ~~xx~~ departmental respondents and also perused the records.

4. For the purpose deciding this Original Application it is not necessary to go into too many facts of this case. The case of the petitioner is that he was appointed vide Annexure-1 as E.D.D.A./M.C. Ambagam during put off vacancy of one Sri Surendra Panda. Later on in order dated 30.10.1998 at Annexure-2 he was appointed against the retirement vacancy of one J.Dora, E.D.D.A./M.C., Ambagom B.O. until further orders. After termination of service as E.D.D.A./M.C., the applicant was asked to work on daily wage basis for a month at the rate of Rs.40/-. Thereafter in order at Annexure-4, Respondent 4 was appointed. The applicant has stated that termination of his service vide order at Annexure-3 is illegal and that is why he has approached the Tribunal with the aforesaid prayers.

5. The Departmental respondents have stated that the vacancy in the post of E.D.D.A./M.C., Ambagam occurred due to

superannuation of the regular incumbent and as the post could not be filled up immediately the applicant was appointed to that post provisionally and steps were taken to fill up the said post on regular basis. Names were received from the Employment Exchange as also in response to public notice. The applicant was one of the persons who applied and therefore, his case was considered, but as the post was reserved for O.B.C. candidate and amongst O.B.C. candidates, Respondent 4, who was the only Matriculate was appointed. It is further stated that applicant is a non-Matriculate and ~~that~~ on that ground also he could not be considered. It has been submitted by the petitioner that requisition ~~was~~ sent to the Employment Exchange, copy of which has been annexed as Annexure-R/5, has been modified. His case is that in the requisition sent to the employment exchange it was not mentioned that the O.B.C. candidate would be given preference and the post would be reserved for O.B.C. candidates. But this has been subsequently interpolated. We are unable to accept this contention of the petitioner, because simultaneously the departmental authorities called for applications from the open market and in that notice also it has been mentioned that O.B.C. candidates only would be appointed. It is in response to this notification the applicant applied for the post. Therefore, the applicant had seen the public notice earlier before filing of this Original Application, but he has mentioned in this O.A. that Annexure-2 has been interpolated. Moreover, the departmental respondents have enclosed the letter addressed by the employment exchange authorities enclosing a list of 40 candidates. From this, we find that employment exchange sent the names of O.B.C.

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only. Therefore, it comes to this that in the requisition sent to the employment exchange it must have been indicated that the post is reserved for O.B.C. candidate and that candidatures of others would be rejected. In view of this contention of the learned counsel that Annexure-2 has been interpolated is held to be without any merit and the same is rejected.

6. For the post of E.D.D.A./M.C. minimum qualification is Class-VIII pass. But the rules do provide that Matriculation will be preferred and any other qualification higher than the Matriculation will be ignored. In view of the above position of the rules and the petitioner being a non-Matriculate obviously ~~some~~ his case could not have been considered in face of Res.4 who is a Matriculate. ~~Moreover, even if Res.4~~

7. In view of the discussions held above, we hold that the application is without any merit and the same is rejected, but without any order as to costs.

8. Before we part with this case, we note that the applicant has worked as E.D.D.A./M.C. vide order at Annexure-1 of Manlabhanga B.O. and ~~also~~ ^{again} worked as E.D.D.A./M.C., Ambagam for about a year. From this it does not appear whether he was appointed as substitute basis. In any case from the counter of the departmental respondents it is clear that appointment of the applicant as E.D.D.A./M.C., Ambagam was not as substitute, but by way of provisional appointment till the regular selection was made. In view of the fact that the applicant had worked for some time as mentioned above against the post of E.D.D.A./M.C., we direct the departmental authorities that in case the petitioner applies for any E.D.Post and in case he has the necessary eligibility for appointment to

that post then his case should be considered along with other candidates strictly in accordance with rules and while considering his candidature his past experience in the E.D. post otherwise than substitute should be taken into consideration following the law laid down by the Full Bench of the C.A.T. in the case of G.S.Parvati v. S.D.I.(P) & Ors. reported in 1991-93 A.T.F.B. Judgments at Page-23.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO//