

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 278 OF 2000
Cuttack this the 19th day of June, 2001

Ajay Kr.Sahu ... Applicant(s)

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Applicant(s)

- Versus -

Union of India & Others ... Respondent(s)

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Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 44.
2. Whether it be circulated to all the Benches of the ~~no~~ Central Administrative Tribunal or not ?

SOMNATH SOM
(SOMNATH SOM)
VICE-CHAIRMAN
19.6.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 278 OF 2000
Cuttack this the 19th day of June, 2001

CORAM:

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

Ajay Kumar Sahoo, aged about 22 years,
Son of Sri Harekrishna Sahu of Vill-Kusuni
Jamankira @ K.Jamankira, P.S. Mahulpali,
Dist- Sambalpur

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Applicant

By the Advocates

M/s.Akhaya Kr.Mishra

-VERSUS-

1. Union of India represented through Chief Post Master General, Orissa, At-Bhubaneswar, District - Khurda
2. Post Master General, Sambalpur Region at Sambalpur, Town/Dist-Sambalpur
3. Superintendent of Post Offices, Sambalpur At/PO/Town/District-Sambalpur
4. Postal Inspector, Deogarh, At-Deogarh, District - Deogarh
5. Amulya Kumar Bhainsa, aged about 21 years, Son of Sri Saheba Bhainsa, of Vill/PO-Sanamundaloi P.S. Mahulpali, Dist-Sambalpur

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Respondents

By the Advocates

Mr.S.B.Jena,
Addl.Standing Counsel
(Central) (For Res.
1 to 4)

ORDER

MR.G.NARASIMHAM, MEMBER (JUDICIAL) : Applicant, Ajaya Kumar Sahoo, challenges the selection and appointment of Amulya Kumar Bhainsa (Respondent No.5) to the post of Extra Departmental Mail Carrier, Sanmundaloi Branch Office. According to him, he has passed the Matriculation in 2nd Division and registered his name in the Employment Exchange, Kuchinda. In response to open advertisement inviting applications for the post of E.D.M.C., Sanmundaloi B.O. the last date of receipt of applications was fixed to 27.12.1999, he had

applied for the post in question along with the required documents on 15.12.1999 through Under Certificate of Posting, ~~through~~ Sanmundaloi Post Office to the addressee S.D.I.(P), Deogarh (Respondent No.4). As he did not receive any intimation, on enquiry he came to know that Respondent No.4 had illegally appointed Respondent No.5, who had secured lesser marks than him in the H.S.C. Examination. His representation to the Chief Post Master General, Orissa Circle, Bhubaneswar, did not yield any fruitful result. Hence this Original Application.

2. Respondent No.5, though duly noticed had neither entered appearance nor contested the case.

3. The stand of the departmental respondents is that application of the applicant applying for the post in question had not reached the S.D.I.(P) Hence question of considering his candidature did not arise. Further, Annexure-5, a certificate of posting is a fake one, inasmuch the alleged round postal seal does not at all tally with the postal seal of that Post Office, specimens of which have been furnished under Annexure-R/2. This apart, the concerned Postmaster of Sanmundaloi, after going through the certificate of posting vide Annexure-5, reported that he had not received any such letter and the round seal appearing as the seal affixed for the purpose of certificate of posting is not the seal impressed by him. He specifically denied to have received any such letter from the applicant on 15.12.1999 for under certificate of posting. Further, the stand of the Department is that as per the departmental guidelines, issue of letter Under Certificate of Posting does not shift responsibility

on the Postal Department to see that the letter is delivered to the proper addressee. In fact under the rules, the Certificate of posting must indicate the time and date of posting when it was presented to the Post Office and after endorsing these particulars the certificate is returned to the person presenting it. Annexure-A/5 does not contain any time.

4. In the rejoinder the applicant reiterates his stand.

5. We have heard Shri Akhaya Kumar Mishra, the learned counsel for the applicant and Shri S.B.Jena, the learned Addl. Standing Counsel appearing for the departmental respondents. Also perused the record.

6. The only point for consideration is whether the applicant had applied for the post in question and whether his application had been received by the S.D.I.(P) (Res.No.4) in time. The specific case of the Department is that no such application was received from the applicant. It is not the case of the applicant that he had applied through Regd.Post sufficiently in advance. His case is that on 15.12.1999, he sent his application under Certificate of Posting, issued by the Postmaster, Sanmundaloi Post Office under Annexure-A/5. Even assuming that the applicant had in fact sent his application on 15.12.1999 under Certificate of Posting, unless he establishes that his application was received at Deogarh in time, he cannot succeed in this case. Annexure-R/2 contains the relevant guidelines of the Post Office Guide Pt. I, concerning Certificate of Postings. Clause 31 deals with the object of issuing certificates, which runs as under:

"31. Object in issuing Certificates - The object in issuing certificates of posting is to afford the public an assurance that letters and other articles entrusted to servants or messengers for posting have actually been posted. The grant of a certificate will not, however, mean that the letters and articles in respect of which the certificate is issued were fully prepaid with postage stamps, nor will it guarantee in any way the despatch of the articles entered in the certificate on the same day, unless they are handed over well in time to catch the last despatch of mails for the day for the particular destination concerned. It must be clearly understood that the articles in respect of which such certificates are issued are not registered and that they are treated in exactly the same as if they had been posted in a letter box. In the event of loss, damage or delay, the certificates will confer no claim for compensation, nor do they furnish any proof of the nature of the contents".

Further under Clause 32 (2) it has been made clear that the officer on duty will indicate the time and date of posting and return the certificate to the person presenting it.

Thus it is clear that a letter issued under Certificate of Posting is treated as exactly in the same manner as if it has been posted in the letter box. In other words, there is no provision that the letter issued under Certificate of Posting must reach the addressee. Further, Annexure-A/5 (the certificate) does not contain time of posting the letter, as required under Clause-32 (2) of the Post Office Guide. Naturally, this will give rise to a doubt whether Annexure-A/5 was really issued by the concerned postal authority of Sanmondaloi B.O. We are not experts to compare the seal/~~specimen~~ ^{of} ~~specimen~~ between Annexure-A/5 and Annexure-R/2, as to whether both the seals tally or not. But one thing is clear that Annexure-A/5 does not contain the time of posting as required under the postal guidelines. Another

thing is that the concerned Postmaster, under Annexure-R/4 reports that on 15.12.1999, he had not received any letter for which he issued certificate of posting under Annexure-5.

Thus, there is no material with us to come to a conclusion that application of the applicant applying for the post in question was received by the Inspector of Post Offices, Deogarh (Res.5) in time. Hence, question of considering the candidature of the applicant does not arise.

7. In the result, we do not see any merit in this application, which is accordingly dismissed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
19.6.2001

19.6.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//