

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 350 OF 2000
Cuttack this the 02nd day of August, 2001

D.K. Behera

...

Applicant

-VERSUS-

Union of India & Others ...

Respondents

(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 ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
2.8.2001

2.8.01
(G. NARASIMHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.350 OF 2000
Cuttack this the 02nd day of August, 2001

CORAM:

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

Dillip Kumar Behera, S/o. Satyabadi Behera,
aged about 25 years, At/PO-Maniabandha, Cuttack

...

By the Advocates

Applicant

M/s.C.R.Mishra
G.Mishra,
D.Dash
T.K.Mishra

-VERSUS-

1. Chief Post Master General, Orissa Circle,
Department of Posts, Govt. of India, Sachivalaya Marg
Bhubaneswar, District - Khurda
2. Superintendent of Post Offices, Cuttack South Division,
Cuttack-1
3. Sub-Divisional Inspector (Postal), Athgarh Sub-Division,
Athgarh, Cuttack

...

By the Advocates

Respondents

Mr.B.Das
A.S.C.(Central)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): Applicant, Dillip Kumar Behera, who applied for the post of Extra Departmental Branch Post Master, Abhimanpur in account with Nuapatna S.O. in response to public notification dated 20.10.1998 (Annexure-1) issued by Respondent No.3 and who was ultimately selected to that post, challenges the order dated 30.3.2000 (Annexure-6) passed by Respondent No.3, cancelling his appointment and selection and prays for issue of direction to Respondent No.3 to appoint him to that post. The cancellation order was passed on the ground that he failed to provide suitable rent free accommodation in the post village for functioning of the Branch

Post Office at Abhimanpur.

The applicant in the Original Application has specifically mentioned that though he provided rent free accommodation for running of the Post Office at Abhimanpur proper along with the proper agreement entered into by him with the land lord of the house vide Annexure-5, the cancellation was made with an oblique motive to harass him.

2. In the counter the Department take the stand that the applicant entered into an agreement with one Sridhar Pal for providing accommodation in Abhimanpur, but the house covered under that agreement is located in a solitary place at Muktapur^{village} which is far away from Abhimanpur and not suitable for holding the post office. The S.D.I.(P), Athagarh(Res.No.4), who was asked to enquire into the matter had accordingly submitted a report to that effect on 16.3.2000 (Annexure-R/1).

3. In the rejoinder the applicant enclosed xerox copy of R.O.R.(Annexure-7) pertaining to the house covered under agreement vide Annexure-5 to prove that it is located in village Abhimanpur and recorded as Gharabari (Home stead) in the name of Sridhar Pal, Son of Narasingh Pal, Abhimanpur.

4. We have heard learned counsel of both sides. The only point for determination is whether the applicant, under the rules, failed to provide rent free accommodation for running the Post Office in the post village, Abhimanpur. This in turn depends on the fact whether the house covered under the agreement (Annexure-5) is located in village Abhimanpur.

5. There is no dispute that the applicant proposed the house of one Sridhar Pal, S/o. Narasingh Pal of Village: Abhimanpur for running the Branch Post Office. As per the agreement under

Annexure-5, this house ~~ap~~ pertains to Plot No.1587/2648 of Khata No.544/90, Mouza - Abhimanpur. The report of the S.D.I.(P) under Annexure-R/1 is that this particular house is not located in the village Abhimanpur but in Muktanagar, which is far away from Abhimanpur and is also located at a solitary place at the foot of a small hill and is also far away from ~~in~~ habitation and as such is not suitable for running the post office. But the R.O.R. under Annexure-7 appended to the rejoinder reveals that this particular Plot and Khata standing in the name of Sridhar Pal, S/o. Narasingh Pal, Village-Abhimanpur is located at Abhimanpur itself and is a home-stead land extending 19 dec. and used as a house. This R.O.R. clinches the issue and proves that the report of the S.D.I.(P) is not correct. The version of the S.D.I.(P) that the house in question is located at the foot of a hill and is far away from place of ~~in~~ habitation also seems improbable that a land recorded as home-stead ~~land is~~ ~~usually~~ will not be far away from the basti/village and that too at the foot of a hill. We have, therefore, no ~~hesitation~~ to say that the report of the S.D.I.(P) under Annexure-R/1 is nothing but ~~incorrect~~ ^{mistakenly} and on the basis of such ^{report} ~~impugned~~ order of cancellation ~~could~~ not have been passed.

In the result, we quash the order of cancellation dated 30.3.2000 vide Annexure-6, cancelling the selection and appointment of the applicant to the post of E.D.B.P.M. and direct the respondents to consider appointment of the applicant to that post pursuant to the selection already held within a period of 30 (thirty) days from the date of receipt of copies of the order. In the result, O.A. is allowed. No costs.

(Signature)
(SUMNATH SOM)
VICE-CHAIRMAN

(Signature) 2.8.01
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//