

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 380 OF 2000
CUTTACK THIS THE 08th DAY OF August 2001

Bijay Kumar Sahoo Applicant(s)

- V e r s u s -

Union of India and Others Respondents.



For Instructions

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of Central Administrative Tribunal or not?

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
8.8201

8.8.2001
(G. NARASIMHAM)
MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 380 OF 2000
CUTTACK THIS THE 08th DAY OF August 2001

CORAM:

THE HON'BLE SHRI SOMNATH SOM,
THE HON'BLE SHRI G.NARASIMHAM,

VICE-CHAIRMAN
MEMBER(J)

1. Bijay Kumar Sahoo,
S/o.Late Pathani Charan Sahoo,
of Vill/P.O.Baldwan,
P.S.Anandapur,
Dist-Keonjhar.

..... Applicant

By the Advocates

M/s S.Misra
S.N.Misra

- V e r s u s -

Union of India through
Director General of Posts
Bak Bhawan, Sansad Marg,
New Delhi.

2. Chief Postmaster General,
Orissa Circle,
At/Po/Ps. Bhubaneswar,
Dist. Khurda.

3. Superintendent of Post Offices
Keonjhar Division,
At/Po/Ps. Keonjhargarh,
Dist. Keonjhar.

4. Sub-Divisional Inspector (Postal)
Anandapur, At/Po/Ps. Anandapur.
Dist-Keonjhar.

..... Respondents

By the Advocates Mr. B.Dash

.....

60

O R D E R

G. NARASIMHAM, MEMBER (JUDICIAL): Applicant, Bijay Kumar Sahoo whose father died on 28.12.89 while serving as EDBPM at Baladwan Branch Post Office, files this application with the following prayer:-

"In view of para-4 above, the petitioner, prays that, the Opposite parties be directed to consider the petitioner for the post of EDBPM in TaraTare Branch Office keeping in view his entitlement for compassionate appointment to such post, and also to give appointment to the petitioner in the aforesaid post and the petitioner as in duty-bound shall ever pray".



2. Facts are not in controversy. On applicant attaining majority he was offered the post of E.D.Packer at Hadagada Sub-Post Office under Rehabilitation Scheme. This Post Office is about 40 kilometeres away from his village. He represented to the authorities to consider his posting in the vicinity of his residence at Baladwan. ^{When} As the Department did not respond, he moved this Tribunal in O.A.734 of 93, with a prayer to appoint in the post of E.D.B.P.M/E.D.S.P.M anywhere in the circle or in the alternative in any E.D.Post in the vicinity of his village. This application was disposed of on 16.2.94 with a direction to the Department to appoint him in a compassionate ground as E.D. Packer in Hadagarh Post Office and in case he does not accept this same it would at his risk. It was also made clear that he can apply for the post of E.D.B.P.M at Bankhidi in which his case should be considered alongwith others and whosoever

U

found suitable would be appointed. There was further direction that in case the applicant will not be selected to this post of E.D.B.P.M, then he would continue as E.D.Packer, Hadagarh (if accepts the post) and as soon as there is any vacancy in the vicinity of his village, the Department should sympathetically consider his case for transfer to that post. Without joining as E.D.Packer at Hadagarh, the applicant applied for the post of E.D.B.P.M. at Bankhidi. He was however, not selected. He was also intimated that he could not be considered to the post of E.D.Packer at Hadagarh as there was no vacancy.

When a vacancy arose for the post of E.D.B.P.M. at Kantipala Branch Office which is near the village of the petitioner, he wanted to apply for that post but his application was not entertained. Then he preferred O.A.121 of 97 to appoint as E.D.B.P.M. at Kantipala or anywhere in the Keonjhar Circle. This was disposed of on 6.11.97, with observation that though applicant can be considered for the post of E.D.B.P.M/E.D.S.P.M. the same shall not be by way of Rehabilitation Scheme and his case should be considered strictly in accordance with rules. Thereafter, he was offered a post of E.D.M.C. in Anandpur Sub-Post Office provisionally and this appointment was made regular w.e.f.10.12.99.

3. The grievance of the applicant is that Anandpur post office is 12 kilometres away from his village and he is experiencing great hardship daily in going to Anandpur returning to his village after work. There being a vacancy in the post of E.D.B.P.M at Taratare Branch Office under another Sub Office, he had



✓

applied for that post alongwith others. Though inquiry in respect of this post had been initiated, in respect of other no such inquiry was made in his case. Hence he has reasons to believe that the Department may not consider his case for the post of E.D.B.P.M. Hence this Original Application.

4. In the counter filed by the Department in January 2001, it has been specifically averred in para-6 that his candidature for the post of E.D.B.P.M, Taratara Branch Office was considered with others as per rules. As per the Department Rules, he did not submit the income certificate in his own name. Hence he was not found eligible for the post. Moreover, he had secured 38.28% of marks in H.S.C. Examination which is far below the percentage of the marks of the selected candidates one Sri Heramba Narayan Satapathy securing 72.85 per cent.

5. No rejoinder has been filed.

6. We have heard Shri S.Mishra, learned counsel for the application and Shri B.Dash, learned Addition Standing Counsel for the Department also perused the records.

7. From the aforesaid pleadings it is clear that the case of the applicant was considered for the post of E.D.B.P.M, Taratara Branch Office but as he secured lesser percentage of marks in H.S.C. Examination than other candidates and as he did not submit the required income certificate, he was not selected. Still he wants a direction to be issued to consider his case for that post keeping in view his entitlement for compassionate appointment to such post. The fact remains most meritorious among the candidates has been selected for the post. Hence issue of



V

direction to the Department to consider the candidature of the applicant would not further arise when in fact his candidature was considered.

Law is well settled that a person claiming appointment under Rehabilitation Scheme has no right to be appointed to a post of his choice. His prayer for appointment under Rehabilitation Scheme to a post of E.D.B.P.M/E.D.S.P.M. under that circle was disallowed in the year 1992 itself. He was offered the post of a E.D.Packer under Rehabilitation Scheme. His calim for entitlement to a post of E.D.B.P.M/E.D.S.P.M under Rehabilitation Scheme, though was in issue in O.A.734/93 and O.A.121/97 was not allowed. Still he putforth same prayer in this Original application which amounts to abuse of the process of this Tribunal. This cannot be encouraged and the prayer is disallowed.

8. In the result, we do not see any merit in this Original Application which is accordingly dismissed but without any costs.

S. Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
8.8.01

8.8.01
(G. NARASIMHAM)
MEMBER (J)