

14

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.440 OF 2000

Cuttack this the 17<sup>th</sup> day of Nov'2005

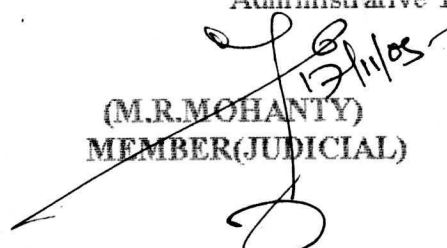
Pradipta Kumar Mohanty ... Applicant(s)


-VERSUS-

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

FOR INSTRUCTIONS

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

  
(M.R. MOHANTY)  
MEMBER(JUDICIAL)

  
(B.N. SOM)  
VICE-CHAIRMAN

15

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CORAM:

THE HON'BLE MR. B.N.SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE MR. M.R. MOHANTY, MEMBER (JUDICIAL)

...

Pradipta Kumar Mohanty, aged about 36 years, Son of Brahmananda Mohanty, At/PI-Palaso, POS/Dist: Jagatsinghpur

...Applicant

By the Advocates:

M/s. Y.S.R. Babu  
M. Verma  
B. Kanungo  
S.M. Das

-VERSUS-

1. Post Master General, Orissa, At/PO-Bhubaneswar, Dist-Khurda
2. Superintendent of Post Offices, Cuttack Southern Division, Cuttack-1
3. Assistant Superintendent of Post Offices (J/C), At/PO/Dist-Jagatsinghpur Post Office, At/PO/Dist: Jagatsinghpur
4. Post Master, Jagatsinghpur Post Office, At/PO/Dist-Jagatsinghpur

...Respondents

By the Advocates

Mr. U.B. Mohapatra, SSC

ORDER

MR. B.N. SOM, VICE-CHAIRMAN: Applicant, Shri P.K. Mohanty has filed this Original Application under Section 19 of the A.T. Act, 1985 seeking the following relief:

"to issue notice to the respondents calling upon them to show cause as to why the applicant will not be appointed regularly in the said post i.e., E.D.B.P.M., At/PO Palasol, Dist-

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Jagatsinghpur, due to the above said facts and circumstances. If the respondents do not show any cause or show insufficient cause, then your lordships may make the rule absolute by directing the respondents to regularize the post of the applicant in which he is at present working as a substitute, in the interest of natural justice to the applicant and also for the protection of law".

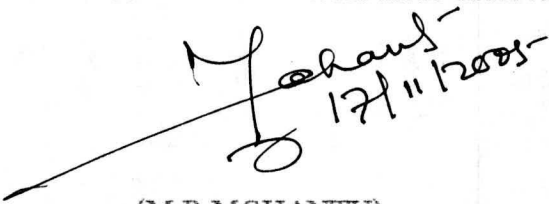
2. It is the case of the applicant that he had worked as a substitute in the post of Extra Departmental Branch Post Master, Palasol at various spells between 18.5.1998 to 1.8.2000. Subsequently, when the post of Branch Post Master fell vacant for regular appointment, without considering his case for appointment to that post, the Respondents advertised the post by public notification dated 11.9.2000 and also declared the post reserved for Scheduled Tribe community; failing which to be filled up by SC/OBC community. It has been submitted by the applicant that he having the requisite educational qualification and age and having obtained experience in the job should have been considered at the first instance before the post could be thrown open for selection to the general public.

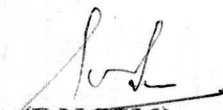
3. The Respondents have contested the application on the ground that a substitute has no legal right to appointment to the regular post of BPM. They have also submitted that the posts of E.D. Agents are to be filled up strictly according to the recruitment procedure laid down in this regard by calling upon the names from the local Employment Exchange or through the public notification. Besides this, the reservation policy has also to be taken into account while filling up the said posts. It is the case of the Respondents that as per the reservation policy, in order to make good the short fall under S.T. quota, the post in question was reserved for S.T. category, and that applicant does not have any locus standi to challenge the same.

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4. Having heard both the sides, we have no doubt that the applicant's submission that he having gained experience as BPM should have been considered for regular appointment is devoid of merit, because, as stated by the Respondents, the posts of EDBPM, being a civil post is required to be filled up according to the procedure laid down in the recruitment rules. Further, as the law is well settled that substitutes do not have any claim to regular appointment/absorption, the applicant does not appear to have any legal right to enforce. This however, is not to say that if the applicant is otherwise eligible in terms of the recruitment rules for the post of GDSBPM, nothing should prohibit him from applying for the post of any GDS as and when the same is advertised by the Respondent-Department.

5. With these observation, this O.A. is disposed of. No costs.

  
(M.R. MOHANTY)  
MEMBER(JUDICIAL)

  
(B.N. SOM)  
VICE-CHAIRMAN