

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.558 OF 2000
Cuttack this the 12th day of February/2002

M.K.Tripathy

...

Applicant(s)

-VERSUS-

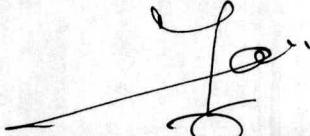
Union of India & Ors. ...

Respondent(s)

(FOR INSTRUCTIONS)

Whether it be referred to reporters or not ? Yes.

Whether it be circulated to all the Benches of the
Central Administrative Tribunal or not ? No


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)


(S.A.T.RIZVI)
MEMBER (ADMINISTRATIVE)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.558 OF 2000
Cuttack this the 12th day of February/2002

CORAM:

THE HON'BLE MR.S.A.T. RIZVI, MEMBER (ADMINISTRATIVE)
AND
THE HON'BLE MR.M.R. MOHANTY, MEMBER (JUDICIAL)

...

Sri Manas Kumar Tripathy, 25 Yrs.,
S/o. Sri Mahendra Nath Tripathy,
At/PO-Dahana, Via-Dangarbhaja,
Dist-Nawarangpur

...

Applicant

By the Advocates

Mr. P.K.Padhi

-VERSUS-

1. Union of India, represented by its Chief Post Master General (Orissa Circle), At/PO-Bhubaneswar, Dist-Khurda 751 001
2. Sr.Superintendent of Post Offices, Koraput Division, At/PO-Jeypore, Dist-Koraput
3. Sanjaya Kumar Rath, At/PO-Dahana, Via-Dangarbhaja Dist-Nawarangpur
4. Director of Postal Services (Berhampur)
At/PO-Berhampur, Dist-Ganjam(O) 760 001

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Respondents

Mr. S.Behera, A.S.C.
(Res.1, 2 and 4)

M/s.L.Samantray,
B.N.Udgata,
A.K.Nayak,
B.Pattnaik,
D.R.Bhokta
(Res. No. 3)

O R D E R

BY MR.S.A.T.RIZVI, MEMBER (ADMINISTRATIVE): To fill the vacancy caused due to the resignation of the permanent incumbent of the post of Extra Departmental Branch Post Master, Jagabandhuguda Branch Post Office, the Respondents issued a Public Notice as well as a letter to the Employment Exchange on one and the same date, i.e., 29.3.2000, inviting applications of suitable *or*



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candidates. Different dates were fixed for filing of applications under the aforesaid two streams. While the last date in respect of public notice was fixed as 18.4.2000, for those sponsored by the Employment Exchange the last date indicated was 12.6.2000. As a result of the aforesaid public notice/letter, 40 candidates were sponsored by the Employment Exchange and 18 applications were received in pursuance of the public notice. Since the list of candidates sponsored by the Employment Exchange was received after the last date fixed for the purpose, the Respondents have not considered the candidature of any of those ~~placed~~ ^{in finding place} in the list sponsored by the Employment Exchange. They have thus confined themselves to the consideration of only 18 applications received in pursuance of the public notice.



2. After a scrutiny of the documents etc., supplied by the aforesaid applicants, the Respondents short-listed seven candidates who had filed applications complete in all respects and were, therefore, supposed to constitute a valid zone of consideration for the purpose of appointment. Out of the aforesaid seven candidates, the Respondents ultimately found Respondent 3 as the most suitable candidate for the purpose of appointment as Extra Departmental Branch Post Master, Jagabandhuguda Branch Post Office. He was accordingly appointed. The applicant, who had admittedly secured a higher percentage of marks in his High School Examination has come up before us through the present Original Application alleging that the Respondents (Department) have not followed the procedures properly. Being more qualified in the above sense, it is the applicant, who should have

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been considered for appointment rather than Private Res.

No.3.

3. The learned counsel appearing on behalf of the Respondents (Department) submits that there is no doubt that the applicant fulfils all the qualifications laid down for appointment as E.D.B.P.M., but his candidature could not be considered for the simple reason that though his application had been received well in time, i.e. on 15.4.2000, ^{the} Income Verification Certificate which ought to have accompanied the application was received belatedly on 19.4.2000. A day's delay has therefore, led to non-consideration of the applicant's claim. In support of his contention the learned counsel for the Respondents (Department) ^{has} relied on the provisions made in the public notice issued on 29.3.2000 (Annexure-R/2). We have perused the same and found that it is clearly stated therein that "any application received after the stipulated date will be rejected". The same also provides that "applications not properly filled in and documents as required not submitted be rejected". The aforesaid provisions read together have only one implication, viz., that applications complete in all respects including the income verification certificate were to be received by the due date, i.e. by 18.4.2000. Since the applicant could not make it on time and delayed the submission of income verification certificate, even if by a day, we have no option but to accept the contention raised on behalf of the Respondents that the applicant's candidature in the circumstances, could not be considered. Accordingly there is nothing wrong if the respondents have not considered his candidature and in the process the applicant has not been

D/



appointed.

4. Learned counsel appearing on behalf of the applicant has in turn relied on the order passed by the Ernakulam Bench of the Central Administrative Tribunal in Original Application No.814 of 1991 decided on 11.5.1993 (Sivadasan vs. Union of India & Ors.).

5. After a perusal of the aforesaid order passed by the Ernakulam Bench of the Tribunal we find that on facts and circumstances that case is distinguished. Firstly we find that the applicant in that Original Application, who had acquired first rank in the interview had reportedly been selected, and there is a statement to that effect in the aforesaid order. In arriving at its findings therefore, the Ernakulam Bench was guided by the aforesaid facts.

In the present case no claim has been made that the applicant was selected. No doubt the Ernakulam Bench has, on an appreciation of the wording of the relevant provision reproduced from Swamy's Compilation has arrived at the conclusion that "selection precedes appointment and that income related verification could be made after selection". We find, however, that while the Ernakulam Bench sought to interpret the wordings in the manner just mentioned, the important fact that a cut off date had to be adhered to for submission of complete applications was not placed before that Bench. Accordingly what that Bench had held will presumably apply to a situation where cut off dates, as in the present case are not prescribed or are not to be adhered to.

6. In this view of the matter placing of reliance on the aforesaid judgment by the learned counsel will not

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assist the applicant.

7. In the light of ~~the~~ discussions held above, the O.A. is found to be devoid of any merit and the same is, accordingly dismissed. There shall be no order as to costs.

See
12/02/2002

(M.R. MOHANTY)
MEMBER (JUDICIAL)

S.A.T. Rizvi
(S.A.T. RIZVI)
MEMBER (ADMINISTRATIVE)

B.K.SAHOO//

