

11

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 709 OF 2003
Cuttack this the 13th day of January/2005

Nalin Kumar Parida ... 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*

13/01/05
(M.R. MOHANTY)
MEMBER (JUDICIAL)

13/01/05
(B.N. SONI)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 709 OF 2003
Cuttack this the 13th day of January/2005

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
AND

THE HON'BLE SHRI M.R. MOHANTY, MEMBER(JUDICIAL)

...

Nalin Kumar Parida, aged about 23 years,
S/o. Sri Purna Chandra Parida, At/PO-Jamukunda,
Via-Baliapal, Dist-Balasore, Orissa

... Applicant

By the Advocates

M/s. S. Mohanty
P. K. Dash

- VERSUS -

1. Superintendent of Post Offices, Balasore Division, At/PO/Dist-Balasore, Orissa
2. Assistant Superintendent of Post Offices, Balasore Sub-Division, At-Balasore, PO-Balasore-756001, Dist-Balasore, Orissa
3. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda, Orissa
4. Union of India represented through Secretary to Government of India, Department of Post, Dak Bhawan, New Delhi
5. Anjali Lenka, aged about 21 years, Daughter of Baikuntha Lenka, Vi-Sahada, PO-Sahada, PS-Chandipur, Dist-Balasore

... Respondents

By the Advocates

Mr. A. Kanungo, A.S.C.

— — — — —
O R D E R

MR. B.N. SOM, VICE-CHAIRMAN: This O.A. has been filed by Shri Nalin Kumar Parida, assailing the order dated 19.5.2003 (Annexure-9) passed by the Superintendent of Post Offices, (Res.No.1) cancelling his provisional selection to the post of Gramin Dak Sevak Branch Post Master (in short G.D.S.B.P.M.) Sahada Branch Post Office. He has approached the Tribunal seeking the following

reliefs :

- i) Let an order be passed quashing the order dtd.19.5.2003(Annexure-9) of Respondent No.1 cancelling the selection of the applicant as Gramin Dak Sevak Branch Post Master, Sahada Branch Office under Sunhat Sub-office;
- ii) Let a direction be issued to the Respondents to requisition Police help and oversee take over of the charge by the applicant from Branch Post Master- in-charge, Sahada B.O. in their presence with the help of police;
- iii) Let an order be passed that no further selection/recruitment/appointment be made to the post of Branch Postmaster, Sahada B.O. during the pendency of Original Application before this Hon'ble Tribunal;
- iv) And let such other order/orders as may be found necessary in favour of the applicant be passed by this Hon'ble Tribunal
- v) Let an order be passed allowing the Original Application
- vi) Let an order be passed to the effect that selection and appointment Anjali Lenka to the post of G.D.S. Branch Post Master, Sahada Branch Office is illegal, contrary to Rules and is void and the appointment of Anjali Lenka quashed."

2. The case of the applicant, in a nut shell, is that the vacancy in the post of G.D.S.B.P.M., Sahada B.O. having occurred, Respondent No.1 issued an open notification on 16.7.2002 calling for applications from general category candidates for the post. The applicant was one amongst 32 applicants, who had responded to the call and was selected for the post having found to be the most meritorious. The applicant had also submitted a consent letter of one Shri Nagendra Rout, who was willing to provide his premises to the applicant for the post office purpose. It has been further submitted by him that the

✓



Respondents-Department have imparted him training. But thereafter, ignoring his representation dated 30.1.2003 and 10.2.2003, allowed him time upto 20.8.2003 for joining the post. The said period was extended by another seven days by the letter of Respondent No.2 dated 28.3.2003. He could not join the post on account of the obstructions caused in this matter by the villagers of the post village, which he communicated to the Respondent No.1. However, the said Respondent advised him to seek police help to secure entry into the village and washed off his responsibility by stating that "The Department has nothing to do in this regard" (Annexure-A/5). As he could not secure the accommodation for opening the post office within the time granted to him, the Respondents-Department cancelled the offer of appointment made to him and appointed Respondent No.5 in his place. It is in this background, the applicant being aggrieved by the aforesaid action of the Respondents, has approached the Tribunal for redressal of his grievance.

3. The Respondents-Department by filing a detailed counter have contested the O.A. The facts of the case however, are not in dispute.

4. We have heard the learned counsel of both the sides and perused the records placed before us.

5. The grievance ventilated by the applicant in this O.A. is that having been assessed as the most meritorious candidate his appointment could not have been cancelled by the Respondents-Department on the ground that he was not able to provide accommodation

for the post office in village Sahada and that he was not able to take up the residence in the post village within the time stipulated.

6. The question, therefore, arises whether the Respondents-Department did have the legal liability in the matter of installation of G.D.S.B.P.M. in the post village and/or in the matter of securing suitable accommodation for the purpose of post office and his residence. The learned counsel for the applicant answered the query by stating that he having been found the most meritorious amongst all the candidates should have been helped by the Department in securing the police protection/ entry into the village for running the post office by hiring an accommodation. The learned Addl. Standing Counsel appearing for the Respondents-Department stoutly refuted this argument. He, by referring to the vacancy circular, pointed out that the intending candidates were clearly apprised of the terms and conditions under which a person could be appointed as GDSBPM. Further, referring to the offer of appointment dated 16.8.2002 (Annexure-1) addressed to the applicant, the learned Addl. Standing Counsel pleaded that in the said letter it was very clearly mentioned that the offer was subject to the condition that he should provide a suitable rent free accommodation for functioning of the Sahada Post Office in Sahada village and that he would stay in that village. In the face of such clear cut condition notified to the candidates/applicant with regard to securing appointment as GDSBPM, it is not open to the applicant now to turn it against/and say that it was ~~not~~ the bounden duty/liability

of the Respondents-Department to ensure that he could get a rent free accommodation for functioning of the post office in the post village and also to ensure that he could stay peacefully in that village.

7. Having heard both the sides and having regard to the terms and conditions of the offer of appointment made by the Respondents in favour of the applicant, we find it difficult to disagree with the stand taken by the learned Addl. Standing Counsel that the Respondents-Department bear no liability to secure any accommodation for running the post office by the applicant. In fact, in the form of application, which the applicant had submitted in response to the vacancy circular (Annexure-R/1) under Column-4(iii), he had given an undertaking that he would be able to provide a suitable rent free accommodation in the post village for the post office in case he was selected. Having regard to this contractual position of the matter, we see no merit in this application, which is accordingly dismissed. No costs.

M.R. Mohanty
(M.R. MOHANTY)
MEMBER (JUDICIAL)

BJY

B.N. Son
(B.N. SON)
VICE-CHAIRMAN

