

**THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK**

*Original Application No. 261 of 2006  
Cuttack, this the 20<sup>th</sup> day of May, 2009  
Tues*

*Bhairaba Gahir .... Applicant  
Versus  
Union of India & Ors. .... Respondents*

**FOR INSTRUCTIONS**

1. *Whether it be referred to the reporters or not?*
2. *Whether it be circulated to all the Benches of the CAT or not?*

  
(JUSTICE K. THANKAPPAN)  
MEMBER (JUDICIAL)

  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)

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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK**

O.A.No.261 of 2006  
Cuttack, this the 30<sup>th</sup> day of June, 2009

C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)

A N D

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

.....

Shri Bhairaba Gahir, aged about 51 years, Son of Late Chamara Gahir, At-Boraguda, PO-Gudialipada, Via/PS-Bhawanipatna, Dist. Kalahandi, PIN 766001.

.....Applicant

Advocate for Applicant: Mr. P.K.Padhi.

-Vs-

1. Union of India represented by Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi, PIN-110 001.
2. Director of Postal Services, Berhampur Region, At/Po-Berhampur, Dist. Ganjam (O), PIN-760001.]
3. Superintendent of Post Offices, Kalahandi Division, At/Po: Bhawanipatna Dist. Kalahandi, PIN 766 001.
4. Assistant Superintendent of Post Offices (I/C), Bhawanipatna, At/Po. Bhawanipatna, Kahalandi, PIN 766001.
5. Shri Mokshyatram Dandse, Gr.D, Office of the Superintendent of Post Offices, Kalahandi Division, At/Po.Bhawanipatna, Kalahandi, PIN-766 001.

....Respondents

Advocate for Respondents: Mr.B.N.Udgata, ASC

O R D E R

Per- MR.C.R.MOHAPATRA, MEMBER (A):-

Applicant is a GDSMP of Bhawanipatna-Jaipatna Mail

Motor Service of Kalahandi Postal Division. In this Original Application, he challenges the selection and appointment of Respondent No.5 to the post of Gr.D reserved for GDS employees of the Kalahandi Division on the ground that as per the rules one must not have crossed the age of 50 years whereas Respondents 1 to 3 selected and appointed Respondent No.5 who has crossed 50 years his date of birth being '01.04.1954'.In support of his stand that the Respondent No.5 has crossed the upper age limit for induction to Gr. D, Applicant has relied on the recording made in the gradation list of GDS employee of the Kalahandi Division showing the date of birth of Respondent No.5 as 01.04.1954.Accordingly, Applicant sought to annul the selection and

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appointment of Respondent No.5 to the post in question and consequently direct the Respondent No.3 to appoint him to the post with all consequential service and financial benefits retrospectively.

2. Respondents have placed on record copy of the SLC of the Respondent No.5 and the attestation form filled up by the Respondent No.5 at the time of his appointment to the post of GDS post. It has been substantiated in the counter filed in this case that the date of birth of Respondent No.5 is "01.04.1955". But while preparing the gradation list the date of birth of Respondent was inadvertently mentioned as "01.04.1954". They have stated that date of birth mentioned in the gradation list is subject to correction as per the records. It has further been stated that since the Respondent No.5 fulfilled all norms provided in the rules and within the upper age limit for being considered for the post in question, he was selected and appointed. Accordingly, Respondents have prayed for dismissal of this OA.

3. Having heard the parties at length perused the materials placed on record. Fact of the matter is that both the Applicant and Respondent No.5 are GDS employees of Kalahandi Postal Division. The date of birth is the only ground of the challenge of the selection and appointment of Respondent No.5 and no other ground has been taken in his pleading or during the hearing of this matter by the Applicant. In view of the facts discussed above, the Respondents having successfully proved that the Respondent No.5 was within the upper age limit by the cut off date, we find hardly any merit in this OA to interfere. As a result, this OA stands dismissed by leaving the parties to bear their own costs.

K.Thankappan  
(JUSTICE K.THANKAPPAN)  
MEMBER (JUDICIAL)

C.R.MOHAPATRA  
(C.R.MOHAPATRA)  
MEMBER (ADMN.)