

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.70 OF 2002
CUTTACK, this the 11th day of August, 2005

SOMANATH MOHANTA APPLICANT.

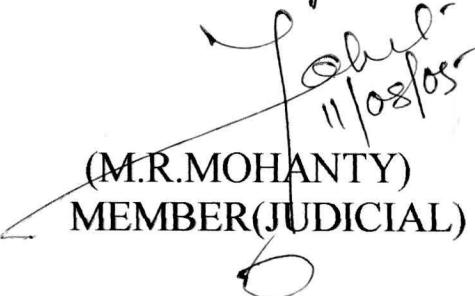
-VERSUS-

UNION OF INDIA & ORS. RESPONDENTS.

FOR INSTRUCTION

3. Whether it be referred to the reporters or not? *Yes*.
4. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *Yes*.


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER(JUDICIAL)

John
11/08/05

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

**Original Application No.70 OF 2002
Cuttack, this the 11th day of August, 2005**

C O R A M:-

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

Somanath Mohanta, Aged about 30 years,
S/o. Siris Chandra Mohanta of Village-
Kaladam, PO-Kothabilla in the house
Of Udayanath Nayak of Village Kothabilla,
Po- Kothabilla,PS: Chandua,Dist.Mayurbhanj.

.....APPLICANT.

For the Applicant: M/.Biswakabi Das,S.P.Barik,Advocate.

VERSUS

1. Superintendent of Post Offices,
Mayurbhanj Division,
At/Po. Baripada, Dist.Mayurbhanj.
2. Sub Divisional Inspector (Postal),Baripada,
West Sub Division,At/Po. Baripada,
Dist. Mayurbhanj.
3. Subash Chandra Mohanta,
Ex-Incharge Branch Post Master,
Kothabilla,At/Po.Kothabilla,
Via- K.M.Kata, Dist. Mayurbhanj.

4. Sumanta Singh, Aged about 30 years,
Son of Pratap Chandra Singh,
Vill./Po-Kothabilla,PS-Chandua,
Dist. Mayurbhanj.
5. Ajit Kumar Das,
Incharge Branch Postmaster of Kothabilla,
At/Po. Kothabilla,PS: Chandua,
Dist. Mayurbhanj.
6. Union of India represented by
Chief Post Master General,
Orissa Circle,Bhubaneswar,
Dist. Khurda.

..... RESPONDENTS.

For the Respondents 1,2 & 6: Mr.A.K.Bose,SSC.

Respondent No.4 : M/s. B.C.Patri,
S.Samantray,
G.P.Patnaik,
Advocates.

O R D E R

MR. M.R.MOHANTY, MEMBER(JUDICIAL):-

In this Original Application under section 19 of the Administrative Tribunals Act, 19, the Applicant has prayed for the following relief(s):-

- (a) to quash the order as per Annexure-7 directing to cancel the order of selection of the applicant if he does not get

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himself joined as Branch Post Master within 15 days of receipt of the said letter.

- (b) to quash the order as per Annexure-15 canceling the selection of the applicant to the post of GDSBPM at Kothabilla;
- (c) to direct the Respondent No.5 to hand over the charge of the Additional Kothabilla Branch Post Office to the Applicant.

2. Short facts of this case are that admittedly, the Applicant was duly selected for the post of Gramin Dak Sevaka Branch Post Master of Kothabilla Branch Post Office in a regular process of selection and resultantly he was issued with an offer under Annexure-1, dated 13-11-2001 subject to providing rent free accommodation and to take-up the residence in the post village. It is the case of the Applicant although he offered the rent free accommodation and fulfilled all the requirements enumerated in the letter under Annexure -A/2 dated 26-11-2001, it was because of public protest (led by Shri Sumanta Singh ,Respondent No.4 who was a candidate for the post, in question, but could not be selected), the Applicant could not be able to take over the charge of the post office. This matter , as it reveals from the averments made by the Applicant culminated into an execution of bond by said Shri Sumanta to maintain peace and order at the intervention of police, in pursuance of an FIR lodged by the Applicant. It is the case of the Applicant that the said fact having been brought to the notice of the Department no tangible action

could be taken at their end enabling the Applicant to take over the charge of the post office. Rather, by letter under Annexure-7 dated 03-01-1002, the Superintendent of post offices, communicated to the Applicant that it was his personal responsibility to arrange his joining as GDS BPM of Kothabilla BPO in account with K M Kata SPO by consulting the local people; failing which the order of selection would be cancelled. While the matter stood thus, as revealed from the records, on the basis of the report received by the Supdt. Of Post Office, (from Shri Subash Chandra Mahanta, Respondent No.3 who was ordered to hand over the charge to the Applicant), the selection of the Applicant was cancelled. Hence this Original Application has been filed by the Applicant with the aforesaid prayers.

3. Respondents have filed their counter opposing the prayers of the Applicant. It reveals, on perusal of the counter, that the Respondents while admitting the facts as stated above, have taken the stand that it was the applicant who should have ensured his joining as GDS BPM, in question, of his own.

It is not the case of the Respondents that they were not aware of the protest of the villagers which stood on the way of the Applicant . This fact is corroborated by the SDI(P) vide his letter dated 11-12-2001; wherein he has categorically reported that the villagers of the Kothabilla BO opposed the selection of the Applicant ; as he is a man

from outside the post village and, at the same time they demanded selection of a candidate of the post village. Thus, the genesis of this case rests upon the protest made by the public against the joining of the Applicant.

4. Although notices were issued to the private Respondent Nos.3,4 and 5, private Respondent No.4, Sri Sumanta Singh has only filed their counter. Applicant has also filed a rejoinder to the counter filed by the Respondents, which we have also taken note of.

5. We have heard the learned counsel for the parties. The learned counsel for the Applicant has strenuously urged that being aggrieved by the non-selection ; Res.No.4 engineered a mob with the help of the anti socials of the locality to see that the Applicant does not either get a rent free accommodation in the post village or take over the charge of the post office. He has also argued that the Res.No.3 also was an instrumental to the mob. He also pointed out that even though the applicant brought this fact to the notice of the authorities in the Department, time and again, no tangible effort was taken either to enable the Applicant to take over the charge or to take up the matter with the concerned authorities maintaining law and order. It was also pointed out that had the authorities, instead of canceling the selection of the Applicant, thought it fit to shift the pos office to a place different/village then such a contingency would not have arisen.

6. Per contra, the learned counsel appearing on behalf of the Respondents opposed the stand taken by the learned counsel for the Applicant. While reiterating the facts stated in their counter, it was submitted by him that the argument advanced by the learned counsel for the Applicant does not hold any water as the applicant did not take over the charge of the post office on call, within the stipulated time and therefore, as per existing instruction of the Respondents Department, the appointing authority has rightly selected Res.No.4 in the interest of the general public.

7. From the arguments and from various pleadings of the parties; the sole point that arises for our consideration is whether in a case where the selected candidate to the post of G.D.S.B.P.M. is restrained by the post villagers, his selection can be cancelled?

At the out set, before coming to the facts as adduced in the counter, we would like to say that Res.No.4 does not have any locus standi to object to the selection and appointment of the Applicant; inasmuch it is not his case that he having stood in a better footing than the Applicant, the Department had ignored his case. But it is a fact that he is the 2nd candidate in the merit list. Be that as it may, amongst other things, his main grievance against the Applicant is that the selected candidate/applicant does not belong to the post village. This averment made by Res.No.4 does not stand to reason, since the recruitment for the

post of G.D.S.B.P.M. does not lay down that the candidate, who belong to the post village only will be considered for the post. This being the position of rule, the stand taken by Res. No.4 is hereby overruled.

Apart from what has been stated above, from the facts as adduced in the counter by Res. No.4, we are convinced that on the pretext to grab the post of G.D.S.B.P.M he has done all sorts of mischief being hand in glove with the authorities in the Department. Therefore, we deprecate the inaction of the Respondents/Department; who failed to rise to the occasion on receipt of representations from the Applicant with regard to his inability to take over the charge of the post office.

We are, therefore, to answer this issue in the negative.

8. It is a matter of great concern that administration, being an element to generate confidence and instill discipline in the mind of the general public, in the instant case has failed in implementing the decision taken by it and at the same time has bent down at the dictate of a handful of villagers. In a democratic country like ours, the rule of law must prevail. The Constitution of India has guaranteed that every citizen has the right to public employment/posts irrespective of race, caste, sex, place of birth etc. From the facts placed by both the parties, it is crystal clear

that the Respondents have proved their incapacitation/unworthiness as if the administrative machinery has come to a stand still. It is to be noted

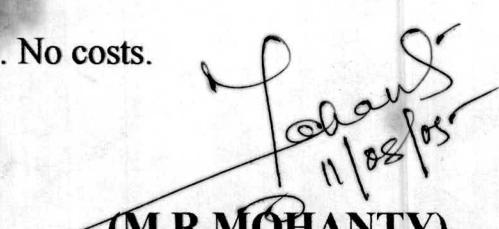
here that had the Respondents taken proper steps, after getting the report from SDI(P) under Annexure/R/2 dated 11.12.2001, the matter would have been viewed in a different direction. It is also the consistent opinion of this Tribunal that where the villagers opposed the joining of the selected candidate demanding selection of a person from the post village, the Department should have thought of shifting the post office from that village to another nearby village; where such law and order situation would not arise.

9. In the above view of the matter, there is no escape from the irresistible conclusion that for the inaction of the Departmental Respondents and for the mob (made at the behest of the Respondent No.4) the Applicant could not take up the charge of the post office. Therefore, the impugned letter under Annexure-15 dated 23-01-2002 (so also the selection of Respondent No.4) are hereby quashed and, as a consequence, the Departmental Respondents are hereby directed to allow the Applicant to join in the post in question, if necessary, by taking the protection of the police and in case, still there would be any hindrance from the side of the villagers, the Respondents shall remain at liberty to decide shifting of the post office from the present post village to any of

the villages nearby where such law and order situation would not arise.

10. In the result, this OA succeeds. No costs.


(B.N.SOM)
VICE-CHAIRMAN


(M.R.MOHANTY)
MEMBER(JUDICIAL)

O.A.NO. 347 OF 2004.

ORDER DATED: 25-04-2005.