
(2003) 02 OHC CK 0021
In the Orissa High Court
Case No : O.J.C. No. 11770 of 1999

Hari Shankar Nandy

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 05-02-2003

Acts Referred:

Citation : (2003) 02 OHC CK 0021

Hon'ble Judges : B.P. Das, J;B. Panigrahi, J

Bench : Division Bench

Advocate : A.K. Mishra, J. Pal, S.K. Ojha and P. Das, for the Appellant; Addl. Standing Counsel (Central), B.P. Satpathy and B.K. Nayak, for the Respondent

Final Decision : Dismissed

Judgement

B. Panigrahi, J.—The writ Petitioner assails the validity of the order passed by the Central Administrative Tribunal, Cuttack Bench in O.A. No. 484 of 1997 whereunder the Petitioner's prayer for quashing the notice, Annexure-2 to the writ application, was rejected.

2. The factual matrix of the case lies in a narrow compass that the post of Extra-Departmental Branch Post Master (for short "EDBPM"), Ambadiha Branch Post Office fell vacant on the eve of retirement of previous incumbent on 31st May, 1997. The Superintendent of Post Office, Balasore called names from the local Employment Exchange on 10.4.1997. The Employment Exchange sponsored the names of four persons including the present Petitioner on 15.5.1997. The Petitioner and other candidates who were sponsored by the Employment Exchange had been asked, vide letter dated 16.6.1997, to submit their applications on proper proforma along with necessary documents on or before 8.7.1997. Pursuant to the said letter all the candidates who were sponsored by the Employment Exchange, submitted their applications in the prescribed proforma. The Superintendent of Post Offices without calling those persons to face interview again issued notification on 31.7.1997 vide Annexure-3, inviting applications from general public for filling up the said post of EDBPM, Ambadiha,

Therefore, the Petitioner being aggrieved by such notification filed an application before the Administrative Tribunal in O.A. No. 484 of 1997 for quashing the notification under Annexure-3.

3. The opposite parties have filed their counter affidavit stating that since less number of candidates had been sponsored by the Employment Exchange, to avoid public criticism, they invited candidates from open market as a result of which further application had been received. It is further stated that some complaints were also made on account of sponsoring names of limited number of candidates. The authorities conducted an interview whereafter opposite party No. 4 in this writ petition was duly appointed after considering the other cases. It is submitted by the opposite parties that the Petitioner even though participated in the said interview, he has not found suitable for being appointed as EDBPM. The only objection that has been taken by the Petitioner before us is that when the authorities had once invited candidates from the local Employment Exchange, there was no occasion for them to again go for open advertisement ignoring the names of candidates, who were sponsored by the local Employment Exchange.

4. From the stand taken by the opposite parties it emerges that since the local Employment Exchange did not sponsor names within thirty days of the requisition, there was no other alternative left for the authorities, but to call for application from the open market. One of the candidates had also filed an application before the Tribunal for an appropriate direction to the opposite parties to invite applications for filling up the same post by an open advertisement. There were also several complaints made by the public. Taking all the facts into consideration, the Department therefore invited applications from the candidates from open market.

5. It is significant to note that the Petitioner participated in the interview and was found not suitable for the post of EDBPM. It has been stated by the Petitioner that he had been employed on ad hoc basis for some time but while giving appointment to opposite party No. 4, his case was not taken into consideration. While Petitioner's father availed leave for some time, the Petitioner was allowed to officiate, but that does not afford him a right to be employed on regular basis, only because, he worked during the leave vacancy caused by his father. There has been no allegation of mala fide by the Petitioner regarding recruitment made by the opposite parties. Considering the case of the Petitioner from any angle, we do not find any illegality or irregularity committed by the Tribunal so as to warrant interference by us with the impugned order.

6. Accordingly, the writ application is dismissed. The order of the Tribunal is hereby confirmed.

B.P. Das, J.

7. I agree.