
(2004) 04 OHC CK 0022

In the Orissa High Court

Case No : Writ Petition (C) No's. 3388 and 3400 of 2002

Puspalata Sahoo

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 23-04-2004

Acts Referred:

Citation : (2004) 98 CLT 164

Hon'ble Judges : Pradip Kumar Mohanty, J; P.K. Mohanty, J

Bench : Division Bench

Advocate : B. Routray, for the Appellant; Addl. Standing Counsel (Central) and J. Patnaik, for the Respondent

Final Decision : Dismissed

Judgement

Pradip Mohanty, J.—The orders dated 29.8.2002 passed by the Central Administrative Tribunal, Cuttack Bench, in Original Application Nos. 181 and 244 of 2001 are under challenge in these two writ petitions. In O. A. No. 181 of 2001, the appointment of the petitioner as the Extra- Departmental Branch Post Master of Kalikaprasad Branch Post Office was challenged by one Ashok Kumar Sahu (opposite party No. 5 in W.P.C. No. 3388 of 2002). The Tribunal by its order dated 29.8.2002 quashed the appointment of the petitioner. Aggrieved, the petitioner has filed W.P.(C) No. 3388 of 2002. O. A. No. 244 of 2001 was filed by the present petitioner challenging the order of her termination. But, in view of the order passed in O. A. No. 181 of 2001, the Tribunal dismissed the same saying that it has become infructuous. Against the said order W.P.(C) No. 3400 of 2002 has been filed by the petitioner, Thus, both the writ petitions being interlinked were taken up together and are disposed of by this common order.

2. At the outset, let us look to the facts of W.P.C. No. 3388 of 2002, which has been filed challenging the order passed in O. A. No. 181 of 2001. According to the petitioner, She had applied for the post of Extra-Departmental Branch Post Master of Kalikaprasad Branch Post Office pursuant to the advertisement dated 23.2.2000 (Annexure-1). The application was submitted to the Senior

Superintendent of Post Offices, Puri, opposite party No. 2, in time, i.e., before 23.3.2000, along with the relevant documents including the income certificate of the petitioner's husband. Thereafter, pending regular appointment, the petitioner was provisionally selected and appointed as the E.D.B.P.M. of Kalikaprasad B.O. for a period of six months or till regular appointment is made, whichever is earlier, by order dated 22.2.2001 (Annexure-4). Against the said order of appointment, opposite party No. 5 - Ashok Kumar Sahu filed O. A. No. 181 of 2001 before the Central Administrative Tribunal, Cuttack Bench. The Tribunal by order dated 29.8.2002 allowed the said Original Application in part by quashing the appointment of the present petitioner and directing the authorities to consider the case of opposite party No. 5 for appointment to the post of E.D.B.P.M., Kalikaprasad Branch Post Office as per rules.

3. In the meanwhile, the petitioner was served with notice dated 30.5.2001 intimating that her services would stand terminated after expiry of a period of one month from the date of service of such notice. Against the same, the petitioner approached the Tribunal by filing Original Application No. 244 of 2001, which was also disposed of on 29.8.2001. Therein, the Tribunal held that the Original Application had become infructuous as the termination notice no longer subsisted.

4. The Tribunal while disposing of Original Application No. 181 of 2001 came to a finding that the present petitioner had submitted her income certificate after the last date fixed for receipt of applications. It also made an observation that the application of the petitioner could not have been considered because of non-filing of her income certificate in time and the selection should have been confined to the remaining eligible candidates.

5. Admittedly, the last date for submission of applications was 23.3.2000. Para - 6 of the advertisement stipulates that the candidate must have independent source of income derived from agricultural property or immovable assets having adequate means of livelihood. It is also stipulated in para - 7 thereof that applications with incomplete entries or with wanting documents as required in the application form or applications received after the due date are liable to be rejected. Undisputedly, the petitioner obtained her income certificate on 13.7.2000 and submitted the same thereafter. Thus, she had not submitted her income certificate along with her application. The same was only submitted after the last date fixed for filing of applications. The selection and appointment of E.D.B.P.M. is governed by a set of executive instructions, which state that the applicants should have adequate means of livelihood. There are also instructions that the income certificate and property certificate of the candidate are required to be furnished by him/her at the time of submission of the application. Since the petitioner had not submitted her income certificate along with the application form, her application should have been rejected at the first instance and she should not have been considered for appointment as E.D.B.P.M.;, because her application was incomplete as on 23.3.2000. In such view of the matter, we do

not see any infirmity in the order of the Tribunal. We are of the opinion that the Tribunal has not committed any illegality and has rightly allowed O.A. No. 181 of 2001 by quashing the order of appointment of the petitioner. In view of this, the other Original Application, i.e., O.A. No. 244 of 2001, filed by the petitioner against the notice of termination of her services was bound to fail and the Tribunal has rightly dismissed the same.

6. For the foregoing discussions, we do not find any reason to interfere with the impugned orders and we uphold the same. The writ petitions are accordingly dismissed. There will be no order as to costs.

P.K. MOHANTY, J.

7. I agree.