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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No.228 of 1988

Date of decision 7th March, 1989

1. Rabindra Behera, aged about 23 years
son of Mohan Behera, at and P.O.
Rebana-Nuagaon, Dist. Puri.

..... Applicant

-Versus-

1. Union of India represented by its
Secretary, in the Department of Posts,
Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle,
At/P.O. Bhubaneswar, Dist. Puri
3. Superintendent of Post Offices,
Puri Division, At, P.O./Dist. Puri
4. Nanda Kumar Bada Dalei,
son of Rama Chandra Dalei,
At/P.O. Rebana-Nuagaon, Dist. Puri.

..... Respondents

For the Applicants M/s. Deepak Misra &
Anil Deo, Advocates

For the Respondents. ... Mr. A.B. Misra, Senior Standing Counsel
(Central) and Mr. T. Dalei, Addl. S.C.
(Central)

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed
to see the judgment? Yes
 2. To be referred to the Reporters or not ? No
 3. Whether Their Lordships wish to see the fair
copy of the Judgment ? Yes
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: - J U D G M E N T : -

K.P.ACHARYA, MEMBER(J)

In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the selection of Opposite party no.4 Sri Nanda Kumar Bada Dalei.

2. Shortly stated, the case of the Petitioner is that he has passed Intermediate in Arts and was one of the applicants for the post of Extra Departmental Branch Post-Master of Rebena-Nuagaon Branch Post office within the district of Puri. Opposite party no.4 was also a candidate along with 2 others. The candidature of 3rd and 4th persons was rejected on certain grounds and the Competent authority after considering the case of the present petitioner Rabindra Behera and O.P.No.4, selected the O.P.No.4 for the said post. Being aggrieved by this decision of the Competent authority in selecting O.P.No.4, the petitioner has come up with the present application with the aforesaid prayer.

3. In their counter, the opposite parties maintained no illegality has been committed by the Competent authority in selecting O.P.No.4 as the O.P.No.4 has passed Matriculation Examination with a higher grade than the present petitioner and there being some discrepancies in the name of the petitioner in the different certificates granted by the prescribed authority, the selecting authority was just and proper to select O.P.No.4 and no illegality having been committed the petition is devoid of merit and the same is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned Counsel for the Petitioner and Mr. Tahali Dalei, learned Additional Standing Counsel (Central) at some length. Mr. Misra submitted

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before us that the qualification of the Petitioner is Intermediate in Arts and Opposite Party No.4 having passed Matriculation Examination, it was no longer open for the Competent authority to come to a conclusion that Opposite party no.4 should be selected because he has higher grade than the petitioner in the Matriculation Examination. Admittedly, the Petitioner has passed Intermediate in Arts Examination. It was further more submitted by Mr.Misra that other eligibility criteria such as income, providing rent free accommodation being the same, and both being of the post village preference should be given to the petitioner who is admittedly a schedule caste candidate and further more it was submitted that the competent authority has taken a wrong view by saying that the name of the Petitioner varies in different certificates. Mr.Misra submitted that the name of the petitioner Rabindra Behera finds place in school leaving certificate and college leaving certificates whereas the certificate granted by the Tahasildar shows that the name of the petitioner is Rabindra Kumar Behera. According to Mr.Misra, Rabindra Behera and Rabindra Kumar Behera are one and the same person with the fathers name being the same and name of the village of Rabindra Behera and Rabindra Kumar Behera tallies. We do not like to express any opinion on the submission made by Mr.Misra, except that the from records we find that the petitioner Rabindra Behera is one and the same person as that of Rabindra Kumar

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Behera. We direct the Senior Superintendent of Post Offices Puri Division, Puri would to re-consider the entire matter and we are sure the Senior Superintendent of Post offices will take into consideration the letter of the Director General of Posts & Telegraphs bearing No.43-246/77-Pen dated 8th March, 1978 and Director General of Posts & Telegraphs letter No.43-117/80-Pen dated 8th October, 1980 and other letters subsequent there to issued on the subject namely as to whether preference to be given to Schedule castes/Schedule Tribes candidates when other conditions is remain the same with the general candidates.

5. We would like to make it clear that despite this order of remand any observation in the judgement should not weigh with the selecting authority and we direct that the Senior Superintendent of Post office would be at liberty to take his own independent decision as to the suitability of both candidates namely the petitioner and O.P.No.4 to hold the post of Extra Departmental Branch Post Master Rebena-Nuagaon Post office. We hope the Senior Superintendent of Post office will pass final orders with reasons within one month from the date of receipt of a copy of this judgement. By our order dated 27.7.88 we had directed that the interim arrangement made by the Competent authority should continue till the final disposal of the application. Such interim arrangement should continue till final orders are passed by the selecting authority.

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6. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

[Signature]
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.....
Member(Judicial)

B.R.PATEL, VICE-CHAIRMAN

9 agree.



[Signature]
7.3.89
.....
Vice-Chairman

Central Administrative Tribunal
Cuttack Bench, Cuttack
7th March, 1989/ Mohapatra