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Date of decision : October 17, 1990.

Versus

For the applicant ...M/s.A.K.Sahoo,
M. Bhuyan, Advocates.

For the respondent
No.5 Mr.Prahallad Kar,Advocate.

THE HONOURABLE MR. B. R. PATEL, VICE-CHAIRMAN

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

END OF TEST

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? *Yes.*
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

J U D G M E N T

The applicant has averred in his application that he belongs to a backward community and after passing

+ 2 Arts Examination he was appointed as Extra-Departmental Branch Postmaster, Bileigarh Branch Post Office in June, 1988. His appointment was approved on 29.9.1988 and he continued to function as Extra-Departmental Branch Post-Master of that Branch Post Office till the filing of the

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application. Respondent No.3 i.e. Senior Superintendent of Post Offices, Sundargarh Division issued a requisition to the Employment Exchange concerned for appointment of Extra-Departmental Branch Post Master of that Post Office. The Employment Exchange sponsored the names of 7 persons including him(the applicant). Respondent No.5, it appears, though not sponsored by the Employment Exchange made an application and Respondent No.4 obtaining some documents from Respondent No.5 issued an order of appointment vide Annexure-4 to the application. The applicant's prayer is for quashing Annexure-4 i.e. the selection of Respondent No.5 as Extra-Departmental Branch Post Master of Bileigarh Branch Post Office.

2. Respondent No.4 alone has filed a counter to the application and his case is that one Kodandadhar Patel was acting as the Extra-Departmental Branch Postmaster of Bileigarh Branch Post Office and he was promoted as ~~the~~ Postman and also he was ~~to~~ leave when he engaged the applicant as his substitute to work as Extra-Departmental Branch Postmaster on his sole risk. The applicant was not appointed as E.D.B.P.M. but he was a substitute for Kodandadhar Patel. What was approved of was the act of Kodandadhar for making the applicant his substitute. As Kodandadhar was promoted as Postman, the post of Extra-Departmental Branch Postmaster, Bileigarh B.O. fell vacant. So, the Employment Exchange at Sundargarh was requested to sponsor candidates. The Employment Exchange sponsored 7 candidates out of which one was not of the Postvillage,

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accordingly the six who were of the post village and sponsored by the Employment Exchange were asked to submit their documents in support of the statements made in their respective applications. Respondent No.5 though had not been sponsored by the Employment Exchange had applied for the post of Extra-Departmental Branch Post Master enclosing all the required documents to the said application of his. After that selection was made from among the seven including the Respondent No.5 and as Respondent No.5 had higher qualification of +2 Arts pass and belonged to a Scheduled Tribe community, being found more suitable was selected subject to verification of the genuineness of the documents furnished by him and verification of antecedents by the Police. In the counter it has further been stated that there was no illegality nor any irregularity in selecting Respondent No.5 as the Extra-Departmental Branch Post Master of Bileigarh Branch Post Office.

3. We have heard Mr.A.K.Sahoo, learned counsel for the applicant and Mr.Tahali Dalai, learned Additional Standing Counsel(Central) for the respondents. Admittedly, the name of Respondent No.5 was not sponsored by the Employment Exchange but he came to be selected as an applicant as Extra-Departmental Branch Postmaster. The question that really arises for consideration is whether the selection of a candidate not sponsored by the Employment Exchange when there were candidates sponsored by the Employment Exchange is supportable. In this regard learned counsel for the applicant has drawn our attention to relevant rules relating to method of recruitment of ED Agents .The

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Director General of Posts & Telegraphs in his letter No. 45-22/71-SPB.I/Pen., dated 4th September, 1982^{conveyed}~~directed~~ the decision of the Government that the employment of ED Agents should be made through Employment exchanges. For this purpose the concerned recruiting agencies should send a requisition to the local employment exchanges requesting nomination of suitable candidates for the post having the prescribed qualifications, within a period of 30 days. The decision of the Government further was that in case no nomination is received from the Employment Exchange regarding the candidates as per requirements within 30 days or if none of the candidates sponsored by the Employment Exchange is found suitable as per the prescribed conditions of eligibility, it would be open to the competent recruiting authority to make selection from other applicants in accordance with the existing procedure. From the counter it is manifest that the applicant is at least a Matriculate. Therefore, he possesses the requisite educational qualification. From the counter it would further be found that all the seven, six including the applicant sponsored by the employment exchange had the residential qualification. It is not the case of the contesting respondents that each of the sponsored candidates was found unsuitable, but their case is that Respondent No.5 was found most suitable. What the rule requires is that with regard to the candidates sponsored by the Employment Exchange, the recruiting authority would be

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free to judge the degree of suitability and when there is an outsider, he cannot be appointed unless the candidates sponsored by the employment exchange are found unsuitable. In view of the specific case of the contesting respondents, it would be found that the recruiting authority did not find any of the sponsored candidates unsuitable as per the prescribed conditions of eligibility. In such circumstances, we would quash the selection of Respondent No.5 and direct that a fresh selection be made from amongst the six sponsored by the Employment Exchange.

4. This application is accordingly disposed of.
No costs.

Amal Kumar 17.10.90
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Vice-Chairman



Manoj Kumar 17.10.90
.....
Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
October 17, 1990/Saranghi.