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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 352 of 1989

Date of Decision 20.4. 1992

Lokanath Patra Applicant

Versus

Union of India & others Respondents

For the applicant M/s.Devanand Mishra,
Deepak Mishra,
R.N.Naik, A.Deo,
B.S.Tripathy
U.S.Agarwal,
Advocates

For the respondents Mr.A.K.Mishra,
Standing Counsel
(Central Government)

C O R A M

HON'BLE MR.K.P.ACHARYA, VICE-CHAIRMAN

AND

HON'BLE MR.C.S.PANDEY, MEMBER (ADMINISTRATIVE)

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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JUDGMENT

K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for quashing the appointment of OP No.5 as Extra Departmental Delivery Agent of Nandapada Branch Post Office.

2. Shortly stated the case of the petitioner is that, he had worked as an Extra Departmental Delivery Agent in Nandapada Branch Post Office from 1.12.1985 till 13.3.1986 and thereafter again from 1.6.1988 to 29.8.1988. In the meanwhile the process for selection of a suitable candidate for the post of E.D.D.A was finalised and the competent authority issued order of appointment in favour of OP No.5 which is under challenge.

3. In their counter the opposite parties maintain that cases of all the candidates including that of the petitioner and OP No.5 was duly considered and the competent authority found OP No.5 as suitable for the post in question and therefore rightly OP No.5 was appointed to the said post and hence the case of the petitioner being devoid of merit is liable to be dismissed.

4. We have heard Mr.R.N.Naik, learned counsel for the petitioner and Mr.A.K.Mishra, learned Standing Counsel for the Central Government at some length.

5. The case of the petitioner is that he had sufficient experience as an E.D.D.A. and that was not taken into consideration whereas appointment of OP No.5 is only on the ground that he had appeared plus two examination, whereas the petitioner was a mere matriculate.

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According to Mr. Naik there was no **justification** at all to weigh with the competent authority for giving preference to OP No.5. We have perused the pleadings of the parties and we are convinced that the fact that the OP No.5 had appeared in the plus two examination which heavily weighed with the competent authority and therefore the order of appointment was issued in his favour. So far as the rules are concerned, there was no dispute presented before us that the minimum educational qualification for the post in question is Class-VIII and it was further undisputed that matriculates are to be preferred. Of course the latest circular issued by the Director General of Posts in the year 1991 was not placed before us, but we are very sure ^{that a} ~~with the~~ circular ^{has been} issued by the Director General of Posts stating therein that higher educational qualification than a matriculate should not weigh with the competent authority. If there are candidates who have equal educational qualification of being matriculates than other candidates then consideration should weigh with the competent authority in making appointments. In the present case the fact that OP No.5 had a higher educational qualification than a matriculate viz. the petitioner ~~and~~ has vitiated the the selection process. Therefore we would quash the appointment issued in favour of the the OP No.5 and would remand

the case to the Superintendent of Post Offices,
Sundargarh Division with a direction that he should
reconsider the cases of all the candidates, who were
of
earlier considered including that/the present
petitioner and OP No.5 and select the candidate who
is found to be suitable by the Superintendent of
Post Offices and accordingly appointment order should
be issued. We hope and trust that the selection
could be completed within sixty days from the date
of receipt of a copy of this judgment. Thus the
the application is accordingly disposed of leaving
the parties to bear their own cost.

[Signature]
MEMBER (ADMINISTRATIVE)
20/4/92

[Signature]
20.4.92
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated 20th April, 1992/ Sahoo//