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(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No.2 of 1991.

Date of decision : November 24, 1994.

Laxman Mishra

...

Applicant.

Versus

Union of India and others ...


Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not ? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? *no*


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

24 Nov 94


(D.P. HIREMATH)
VICE-CHAIRMAN.

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH.

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CORAM:

THE HON'BLE MR. JUSTICE D.P. HIREMATH, VICE-CHAIRMAN

A N D

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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Laxman Mishra,
aged about 31 years,
son of late Mrutunjaya Mishra
of village/P.O. Pratap Purusottampur,
P.S. Chandanpur, Dist. Puri.

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Applicant.

By Advocates ...

M/s. D.N. Misra,
S.K. Panda,
Akhay K. Misra.

Versus

1. Union of India, represented through its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Puri Division, Dist. Puri.
3. Additional Superintendent of Post Offices, Puri Division, Puri, Dist. Puri.
4. Somanath Rath, aged about 24 years, S/o Sri Kasinath Rath, At/P.O. Pratap Purusottampur, P.S. Chandanpur, Dist. Puri.

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Respondents.

By Advocate ...

Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

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O R D E R


D.P. HIREMATH, V.C., The applicant herein has challenged the appointment of Respondent No.4, Somanath Rath as

Extra-Departmental Branch Postmaster on the ground that the appointing authority was not justified in rejecting his income certificate. He produced the solvency certificate from the Revenue authority declaring him solvent to the extent of Rs.35,000/-. What was required at the relevant time under the Rules existing ^{used} that he should have adequate means of livelihood. Even if it is assumed that this solvency certificate issued by the competent authority fulfils the said requirement, the main hurdle in the way of the applicant is one of the educational qualification which is less than ^{that of} the Respondent No.4. The tabular check-sheet filed by the respondents at Annexure-R-10 indicates that Respondent No.4 was H.S.C. pass means a Matriculate whereas the applicant has studied upto Class X standard at the relevant time. The Rules of recruitment prior to 1993 stipulated that where there was a person who had passed VIIIth standard and a Matriculate, the Matriculate should be preferred. Applying this rule, Respondent No.4 stands ^{on} ~~in~~ a better footing though his income was slightly less than the one that the applicant possessed. If all things are equal or even when the income of a candidate is less than his competitor, if the competitor possesses higher qualification and fulfils the requirement of the Rules, that person who mainly fulfils the educational qualification, may have to be preferred. That obviously appears to be the case in the present selection and we are satisfied that Respondent No.4 had a better qualification than the applicant.

That being so, the applicant should have no grievance against the appointment of Respondent No.4. The application fails and is dismissed. No costs.


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(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

24 NOV 94


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(D.P. HIREMATH)
VICE-CHAIRMAN.

Sarangi.