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CENTRAL ADMINISTRATIVE TRIBUNAL : CUTTACK BENCH:
C U T T A C K .

Original Application No.471 of 1991.

Cuttack this the 5th day of December, 1996.

Dambarudhar Dash Applicant.

Versus.

Senior Superintendent of Post Offices,
Bhubaneswar Division, Bhubaneswar
and another. . . . Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No
2. Whether it be circulated to all the Benches
of the Central Administrative Tribunal or not? No.


(N. SAHU)
MEMBER (ADMINISTRATIVE).

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.471 OF 1991.

Cuttack this the 5th day of December, 1996.

C O R A M :

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE).

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Dambarudhar Dash, aged 25 years,
Son of Ramesh Chandra Dash,
Village/P.O.Ghatikia,
P.S.Khandagiri, Dist-Puri.

.... Applicant.

By the Advocate :

: M/s. B.L.N.Swamy and
A.K.Rath.

Versus.

1. Senior Superintendent of Post Offices,
Bhubaneswar Division, Bhubaneswar,
Pin-751 001, Dist-Puri.

2. Government of India, represented by
Post Master General, Posts & Telegraphs,
Bhubaneswar, District-Puri.

..... Respondents.

By the Advocate :

: Shri Ashok Mishra,
Senior Counsel.

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O R D E R.

(Dictated and pronounced in open Court).

N. SAHU, MEMBER (ADMINISTRATIVE): Heard Shri B.L.N.Swamy, learned counsel for the applicant and Shri Ashok Mishra, learned Senior Counsel for the respondents. The applicant applied for the post of E.D.B.P.M. of Ghatikia B.P.O.. This post had fallen vacant since March, 1991. The applicant along with two others, namely, Pabitra Mohan Dash and Bijaya Balabantara had applied for the

said post. His grievance is that without disposing of the applications of these three candidates, respondent No.1 by a notification dated 7.11.91 invited fresh applications for the said post. There was a stay to the recruitment process.

2. Learned counsel Sri B.L.N.Swamy, argued that at para-12 of the counter the applicant was held to be not suitable for the post on verification of his certificates and documents. There was a finding that the income and solvency certificates submitted by the applicant were found to be not genuine. Para-9 of the counter states that the certificates and documents of all the three candidates were verified and on verification it was found that nobody was suitable. Learned counsel for the respondents had submitted copies of the reports of verification conducted by an officer deputed for this purpose. The applicant's claim was that he was solvent to the extent of Rs.30,000/- on homestead land and building. He could not produce any record that he was the owner of the said homestead land and building. Enquiry revealed that he was a co-owner of a joint property to the extent of Ac.0.44½ cents whose value is Rs.8,900/-, and the applicant's share is only 50%. The Inquiring Officer held that this land could not yield an income of Rs.8,000/-. Sale deeds were submitted and these sale deeds were also put up before a superior officer for consideration. That apart, a detailed statement of the applicant was recorded. In

this statement the applicant admitted his joint ownership with one Smt. Susila Behera. He could not substantiate as to how he could quantify the income from this small piece of land to his share. With regard to the other candidate Sri Pabitra Mohan Dash, there was a certificate of solvency of Rs. 30,000/- of agricultural land. His source of income was stated to be from agriculture and from a grocery shop. During examination Sri Dash admitted that he did not have any grocery shop and thus this source of income was not true. The selecting authorities having found that none of the candidates' credentials was verifiable and true, they had opted to invite fresh applications by the impugned notification dated 7.11.91.

3. Counsel for the respondents pointed out that Annexure-R/1 to the counter is the representation from a large number of villagers to the effect that the first notification was not properly circulated and it deprived the eligible candidates of the locality from responding in time and therefore, sought for another opportunity. Considering these aspects, the respondents sought to make a fresh recruitment by inviting applications through a fresh notification. Learned counsel for the respondents has drawn my attention to a decision of the Patna Bench of the Tribunal reported in Swamy's Case Law Digest 1994-I at page 338 in the case of Rajiv Kumar v. Union of India and others. It has been decided in this case that issue of a fresh notification without cancelling the earlier one after consideration of the candidates sponsored and holding that

none was eligible was a proper course of action.

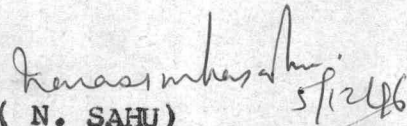
4. I do not think that the respondents have committed any illegality or impropriety in issuing the fresh notification. They had examined the credentials of each of the candidates. They had taken their statements and according to the selecting authorities, none was found suitable. That apart, they have also given importance to the complaint of the villagers. In the interest of justice, they opted for inviting applications from a wider range of eligible candidates for the post. This is proper. The respondents are directed to ~~and~~ proceed with the recruitment process to the post of E.D. B.P.M., Ghatikia B.O. on the basis of the applications received in response to the notification dated 7.11.91. The stay dated 3.11.1995 is hereby vacated.

5. It is settled law that the rules governing the vacancy would be those rules which are operative at the time when the vacancy occurs. This is settled in a decision reported in AIR 1983 S.C. page 852. (Y.V. Rangaiah and others v. J. Sreenivasa Rao and others). Secondly, for recruitment to the post of E.D.B.P.M. the most important consideration should be merit. Residential qualification, income and property qualification as determinants to become eligible for consideration have been declared unconstitutional. Everyone who is eligible is entitled to consideration, but only the person who is the more meritorious and deserving shall be selected. The respondents while

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considering the applicants who have applied for the post in response to the notification dated 7.11.91 shall also consider the applicant's case along with others and for this purpose, if the earlier application is not in order, an opportunity of three weeks' time be allowed to the applicant to submit a fresh application and this period of three weeks shall commence a week after the date of receipt of a copy of this order by the respondents.

The O.A. is disposed of with the above observations.


(N. SAHU)
MEMBER (ADMINISTRATIVE).

Jena/