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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 233 OF 1992.

CUTTACK, this the 2nd day of March, 1999.

KRUSHNA CHANDRA SEPHY. ... APPLICANT.

- Versus -

UNION OF INDIA & OTHERS. ... RESPONDENTS.

( FOR INSTRUCTIONS )

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

(G. NARASIMHAM)  
MEMBER (JUDICIAL).

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 233 OF 1992.

Cuttack this the 2nd day of March, 1999 .

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL) .

....

Krushna Chandra Sethy,  
Aged about 25 years,  
S/o. Natabar Sethi,  
of vill./Po. Sankarpur,  
Ps. Choudwar, Dist. Cuttack.

.... APPLICANT .

By legal practitioner : Ms. S. L. Patnaik, Mr. D. K. Patnaik, Advocates.

-VERSUS-

1. Union of India represented through its Secretary,  
Department of Posts, Dak Bhawan, New Delhi-1.
2. Chief Post Master General, Orissa Circle, Bhubaneswar .
3. Superintendent of Post Offices, Cuttack South Division,  
Cuttack-1.
4. Suresh Chandra Rout, S/o. Shri Kalandhi Rout,  
Vill/Po. Sankarpur, Ps. Choudwar, Dist. Cuttack.

.... RESPONDENTS .

By legal practitioner : Mr. S. B. Jena, Additional Standing  
(Res. Nos. 1 to 3). Counsel (Central) .

By legal practitioner : M/s. S. K. Mchanty, S. P. Mchanty, Advocates .  
(Res. Nos. 4 )

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN :

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, the applicant, who was a candidature for the post of Extra Departmental Branch Post Master, Sankarpur Branch Post Office has prayed for quashing the appointment of Res. No. 4 to the Post of EDBPM, Sankarpur BO and also for a direction to the Respondents, to select the applicant extending preferential treatment to the applicant as per rule 6 of the relevant rules.

2. Short facts of this case, according to the Applicant, are that he is a matriculate and is a permanent resident of Sankarpur in Choudwar PS, under Cuttack District. He belongs to SC and has passed Kovidā in Hindi. Departmental Authorities issued notice on 27-3-1992 calling for applications for filling up of the post of EDBPM, Sankarpur BO. In response to the notice, applicant and Respondent No. 4 along with some others applied for the post in question. Applicant states that even though he is a SC, he was not shown any preference. It is also submitted that the fact that he has passed Kovidā in Hindi, has not been taken into account and no weightage was given to his higher qualification. Lastly, he has stated that according to his Income Certificate, his Annual Income is Rs. 45,000/- whereas the Annual Income of Respondent No. 4 is Rs. 27,500/- and this fact was also ignored by the Departmental Authorities and Respondent No. 4 has been illegally selected. In view of this, he has come up with the prayer referred to above.

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3. Respondent No.4, in his counter has stated that according to the Income Certificate of the applicant, annexed as Annexure-5 in the Original Application, income from Agrl. land has been shown as Rs. 5,000/- and Rs.40,000/- from other sources but the applicant has no landed property in his own name. In view of this, he has questioned the Income Certificate filed by the Applicant. Respondent No.4 has also made averments with regard to his Income Certificate and also the regd. deed showing purchase of land by Res.No.4. He has also stated that, he has passed matriculation in 2nd Division but the applicant has not appended his mark-sheet alongwith this OA. It is also stated that Res.No.4 has passed BA. Respondent No.4, has also stated that there is no rule for giving preference to the applicant on the ground that he is being a SC candidate and on the above facts, he has opposed the prayer of the applicant.

4. Departmental Authorities, in their counter have stated that the selected candidate, Respondent No.4 has all the requisite qualification and eligibility and he has got 42% marks in the HSC Examn. whereas the applicant has got 37%. In view of this, Respondent No.4 has been selected. It is submitted that the applicant's income certificate shows an income of Rs. 45,000/- whereas Respondent's income is Rs. 27,500/- but the selection ~~cannot be made on the basis of higher~~ income and therefore, this contention of the applicant has been opposed by the Departmental Respondents. It has further been submitted by the learned Additional Standing Counsel that the post is not reserved for SC candidate and no roster has been maintained. In view of this, no preference can be shown to SC candidate.

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5. We have heard Shri S.B.Jena, learned Additional Standing Counsel for the Departmental Respondents. Departmental instruction provides that amongst the persons eligible to be appointed to the post of EDBPM, the person, who has got highest mark in the Matriculation Examination should be selected and appointed. In this case, Respondent No.4 has got higher mark than the applicant in the matriculation examination and, therefore, his selection over the applicant, can not be called illegal. As regards the other point that the applicant has the more annual income than the Respondent NO.4, it is to be noted that Departmental instruction clearly provides that the selection should not be based only on the ground of larger annual income. All that, the Departmental Authorities have to do is to ensure that the selected candidate has the adequate means of livelihood. Therefore, this ground urged by the applicant also fails.

As regards the point that qualification in Hindi has not been taken into account, there is no provision to take into consideration his proficiency in Hindi for the purpose of selection. The last point is that the applicant belongs to SC and this has not been taken note of and no preference has been given. Departmental Authorities have pointed out that the post is not reserved for SC candidate nor was any indication that the SC candidate should be preferred and therefore, the Departmental Authorities have done the right thing by selecting a person who has got highest mark in the Matriculation examination and is otherwise eligible for the post in question.

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6. In the result, therefore, we hold that the applicant has not been able to make out a case for the reliefs sought for by him and the original application accordingly is rejected but in the circumstances, there would be no order as to costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*2/99*

KNM/CM.