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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.366 OF 1992
Cuttack, this the 10th day of March, 1999

Ananta pujariApplicant

Vrs.

Union of India and 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
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 10.3.99

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Ananta Pujari, aged about 26 years,
son of Labo Pujari,
At/PO-Pujariguda,
Via-Tentulikunti, District-Koraput Applicant

Advocate for applicant - M/s C.A.Rao
S.K.Purohit
S.K.Bhera

Vrs.

1. Union of India, represented through its Secretary in the Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, District-Puri.
3. Senior Superintendent of Post Offices, Koraput Division, At/P.O-Jeypore, District-Koraput.
4. Inspector of Post Offices, Nawarangpur, At/PO-Nawarangpur, District-Koraput.
5. Makardwaj Bisoi, At/PO-Pujariguda, Via-Tentulikunti, District-Koraput Respondents

Advocate for respondents- Mr.S.B.jena,
Addl.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the selection of Makardhwaja Bisoi (respondent no.5) for the post of E.D.B.P.M., Pujariguda B.O. and for a direction to the departmental respondents to consider the case of the applicant for appointment as E.D.B.P.M, Pujariguda B.O.

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2. The facts of this case, according to the petitioner, are that he is a resident of village Pujariguda and belongs to Scheduled Tribe community. When the post of EDBPM, Pujariguda, fell vacant, Inspector of Post Offices, Nawarangpur (respondent no.4) after due enquiry into the applicant's eligibility, kept him in charge of the Branch Office. The charge report dated 30.3.1992 of the applicant is at Annexure-1. Simultaneously the post was advertised. The applicant's name was sponsored by the Employment Exchange and he was asked to apply with all relevant documents in the prescribed proforma. The applicant's name was not considered even though he had higher qualification. The applicant has passed Class VIII whereas respondent no.5 has failed Class VIII. Moreover, the applicant belongs to ST community whereas respondent no.5 belongs to general caste. It is stated that because of extraneous reasons the applicant was not selected for the post. He made several representations and took up the matter with the local M.P., but without any result. That is how he has come up in this petition with the aforesaid prayers.

3. The departmental respondents in their counter have stated that Post Master General, Berhampur, issued order to open a Branch Post Office at Pujariguda. This office was due to open on 30.3.1992. As selection and appointment of regular EDBPM would take time, the applicant was offered ad hoc appointment by respondent no.4 and simultaneously a requisition was sent to Junior Employment Officer, Employment Exchange, Khatiguda. A copy of the requisition is at Annexure-R/1. The Junior Employment Officer, Khatiguda, sponsored names of six candidates in his letter dated 9.3.1992 at Annexure-R/II. Names of applicant and respondent no.5 were sponsored by the Employment Exchange. The

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educational qualification of the applicant was noted as VIIIth pass and the educational qualification of respondent no.5 was noted as Class IX pass. All the persons sponsored by the Employment Exchange were asked to send applications in prescribed proforma with necessary documentation. In response to this, three candidates applied for the post including the applicant and respondent no.5. The third candidate did not submit income certificate and residential certificate and so his case could not be considered. Between the applicant and respondent no.5, the departmental authorities noted that the applicant has passed Class VIII whereas respondent no.5 has failed in High School Certificate Examination. In the details forwarded by the Employment Exchange which are at Annexure-R/II, respondent no.5 has been shown to have educational qualification of 9th pass. The departmental authorities selected respondent no.5 because he had higher qualification and also because his income was Rs.10,000/- as against Rs.5000/- of the applicant. It has been stated by the departmental respondents in their counter that respondent no.5 has been rightly selected in accordance with rules and that is why they have opposed the prayers of the applicant.

4. Respondent no.5 was issued notice, but he did not appear nor filed counter.

5. We have heard Shri C.A.Rao, the learned counsel for the petitioner and Shri S.B.Jena, the learned Additional Standing Counsel appearing for the departmental respondents, and have also perused the records.

6. At the relevant time the minimum educational qualification for appointment to the post of EDBPM was Class VIIIth pass. But there was provision for giving weightage to higher educational qualification

with the rider that no weightage should be given to any qualification above matriculation. In the instant case, the applicant has passed Class VIII and thus had the minimum educational qualification. Respondent has failed in High School Certificate Examination. The departmental authorities have taken that he has passed Class IX and therefore, he had higher educational qualification and because of this, preference has been shown to respondent no.5. In the requisition to the Employment Exchange, it was mentioned that preference will be shown to SC/ST candidate as per rules. The applicant is an ST candidate whereas respondent no.5 belongs to general category. The question of preference to ST candidate will arise if both the candidates are evenly balanced. In this case, respondent no.5 has higher educational qualification and that is why he has been selected. The departmental authorities have also taken into consideration the higher income of respondent no.5. This is not relevant because it has been laid down in circular of Director-General, Posts, that higher income should not be a criterion for selecting a person. It has only to be seen that a selected person has adequate means of livelihood. This consideration is, therefore, not relevant for the present purpose. But as the departmental authorities have selected a candidate with higher educational qualification and as the post was not reserved for a candidate belonging to ST, we hold that no illegality has been committed by the departmental authorities in selecting respondent no.5 for the post.

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7. In the result, therefore, we hold that the applicant has not been able to make out a case for

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any of the reliefs claimed by him. The application is held to be without any merit and is rejected but without any order as to costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

10.3.99

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