

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 452 OF 1992

Cuttack, this the 21st April, 1999

Laxmidhara Mohanta Applicant

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)

MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
21.4.99

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CORAM:

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

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Laxmidhar Mohanta, aged about 22 years,
son of Padmalochan Mohanto, Village & P.O-Paikabasa,
Via-Sankerko, District-Mayurbhanj-757 024Applicant

Advocate for applicant - M/s A.K.Mohapatra
B.S.Satapathy
K.N.Parida
M.Mishra.

Vrs.

1. Union of India, represented through its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, District-Puri.
3. Superintendent of Post Offices, Mayurbhanj Division, Baripada-757 001, District-Mayurbhanj.
4. Sub-Divisional Inspector (Postal), Barsahi Sub-Division, Mayurbhanj.
5. Smt.Padmabati Behera, w/o Narayan Behera, Village & Post-Paikabasa, Via-Sankerko, District-MayurbhanjRespondents

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.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 Smt.Padmabati

Behera (respondent no.5) as E.D.B.P.M., Paikabasa Branch Post Office and to direct the respondents to select the applicant to that post.

2. Case of the petitioner is that for filling up of the post of EDBPM, Paikabasa E.D.O., the respondents issued a notice dated 20.4.1992 at Annexure-1 calling for applications from the open market. Later on 29.6.1992 another notice was issued (Annexure-2) again calling for applications from the open market. The petitioner submitted an application with all the necessary documents. Respondent no.5 also applied for the said post. The applicant has stated that he had registered his name in the Employment Exchange whereas respondent no.5 had not registered herself in the Employment Exchange. It is further submitted that the income certificate submitted by respondent no.5 was for Rs.2000/- and she has lesser qualification than the applicant. But Sub-Divisional Inspector (P) (respondent no.4) has issued order of selection in favour of respondent no.5. The applicant has stated that contrary to the instructions names were not called from the Employment Exchange. It is further submitted that even though the applicant was more meritorious, respondent no.5 was wrongly selected and that is why he has come up in this petition with the prayers referred to earlier.

3. The departmental respondents in their counter have stated that consequent upon opening of a new Branch Office at Paikabasa, it was necessary to fill up the newly created post of EDBPM and the Employment Exchange was asked vide Annexure-R/2 to send names to reach the office of Superintendent of Post Offices, Mayurbhanj Division, by 26.3.1992. The Employment

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Exchange sponsored seven candidates and all the seven candidates were addressed to submit detailed application forms with necessary documentation by 16.4.1992. This letter calling upon the seven candidates to submit detailed applications is at Annexure-R/4. In response to this, only one candidate Smt. Pravati Manjari Mohanta submitted her application. But as she did not submit her income certificate and submitted an income certificate of her husband, her candidature was not considered and it was again decided to call for applications from the open market. This notification was issued fixing the last date for receipt of applications on 11.5.1992. In response to this, only two candidates submitted their applications. The petitioner did not submit any application. The two persons who submitted applications in response to Annexure-6 were Smt. Padmini Behera and Sri P.K. Mohanta. Before finalisation of the selection, a public petition was received at Annexure-R/9 alleging that adequate publicity has not been given to the notice at Annexure-1 to the OA. Therefore, the vacancy was notified again vide Annexure-2 and Annexure-R/10 fixing the last date for receipt of applications on 30.7.1992. In response to this, five candidates submitted their applications. These included the applicant and respondent no.5. The candidatures of all the five were considered and the documents were sent to the Sub-Divisional Inspector (Postal) of the concerned area for verification. The verification report was received on 23.8.1992, the selection was finalised on 31.8.1992 and respondent no.5 was selected. The departmental respondents in their counter have given the check-list

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of all the five candidates which is at Annexure-R/11. It has been stated by the departmental respondents that the persons against serial nos.2,3 and 5 of the check-list did not have any landed property in their own name. Respondent no.5, who is at serial no.1 in the check-list had passed Class IX and the applicant who is against serial no.5 in the check-list is a plucked Class X, but he has not given the marksheet for IXth class. It is also stated that the applicant had obtained very poor marks in the plucked Xth class whereas respondent no.5 at serial no.1 had obtained very good marks in Class IX. She had also additional qualification in Hindi. Further it is stated by the departmental authorities in the counter that many male persons appointed in EDBPM posts are involved in big fraud cases and in view of the recommendation of the Inspector of that area (Annexure-R/12) respondent no.5, ^{a lady,} was selected and appointed to this post. The departmental respondents have further stated that the departmental authorities have followed the rules strictly and selected respondent no.5 rightly and on that ground they have opposed the prayers of the applicant.

4. Respondent no.5 has been issued notice, but she has neither appeared nor filed counter.

5. This matter of 1992 was called for hearing on 26.3.1999. The learned counsel for the petitioner was absent. On his behalf adjournment was sought for on the ground of his illness. It was noted that on the two previous occasions on 15.2.1999 and 7.1.1999 adjournment was asked for on behalf of the learned counsel for the petitioner on the ground of illness. Earlier on 19.11.1998 the learned counsel for the petitioner was also absent. In view of this, it was

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decided that the matter cannot be allowed to be dragged on indefinitely. In view of this, Shri A.K.Bose, the learned Senior Standing Counsel appearing on behalf of the departmental respondents was heard and the records were perused and the hearing was closed.

6. The first ground of challenge of the petitioner is that the departmental authorities had not called for names from the Employment Exchange which was required to be done under the rules. This contention is without any merit because the departmental authorities in fact called for names from the Employment Exchange and the Employment Exchange sent seven candidates. But only one candidate submitted incomplete application and therefore, her name could not be considered. This contention of the petitioner is therefore rejected.

7. The second contention of the petitioner is that he had more income than respondent no.5 and therefore he should have been selected. From the documents enclosed to the counter it is noticed that respondent no.5's annual income was noted as Rs.2000/- whereas the applicant's annual income was noted as Rs.2500/- in the income certificate vide Memo.No.11806 dated 25.7.1992 issued by the Additional Tahasildar. The difference between the income of the applicant and that of respondent no.5 is not such so as to make any difference in the selection. In any case the departmental instructions provide that larger annual income should not be a criterion for selecting a person to the post of EDBPM. This contention of the petitioner is therefore held to be without any merit and is rejected.

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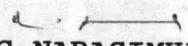
8. We have gone through the report of Sub-Divisional Inspector (P) which is at Annexure-R/12. He has reported that the house of respondent no.5 is situated on the main road, on the mail route and she has a separable pucca building. The Sub-Divisional Inspector (P) has also noted respondent no.5's extra qualification in Hindi and has also opined that woman candidate will be more suitable. As regards the applicant, it has been noted that his house is away from the mail route and the applicant is constructing a pucca building of which only 4 to 5' walls have been constructed. Along with his report the Sub-Divisional Inspector (Postal) has given a sketch map showing the main road on which the house of respondent no.5 and the houses of two other candidates are situated. This sketch also shows the location of the house of the applicant which is on another road away from the main road branching off from the main road and on another route. In view of this, the Sub-Divisional Inspector (P) has recommended the case of respondent no.5 over the applicant. The location of the building in which the Post Office will be situated is a vital consideration and this cannot be taken to be an extraneous matter. The local people will be benefitted if the Post Office is situated on the main road and is in a pucca building. It will also be helpful to the Department if the post office is situated on the main road through which the bus carrying mail passes. This is, therefore, a genuine consideration for selection of the EDBPM.

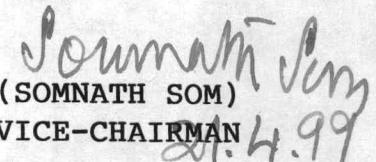
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9. The last and most important aspect of the matter is educational qualification, more precisely the marks obtained in the examination. The departmental

respondents have pointed out that the candidate at serial no. 1, i.e., respondent no.5 has passed Class IX and has got very good marks. The applicant has plucked Class X but he has not given the marksheet of Class IX. In consideration of this, the departmental authorities have selected respondent no.5. We find nothing wrong in the selection of respondent no.5 for the reasons indicated above.

10. In consideration of all the above, we hold that the applicant has not been able to make out a case for any of the reliefs claimed by him. The Application is therefore held to be without any merit and is dismissed but, under the circumstances, without any order as to costs.


(G.NARASIMHAM)
MEMBER(JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN
20.4.99

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