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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 660 OF 1992.

CUTTACK, this the 1st day of FEBRUARY, 1999.

SURESH KUMAR SAHOO.

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 SORI
VICE-CHAIRMAN
FEBRUARY 1999)

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 660 OF 1992.

Cuttack this the 1st day of February, 1999.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE- CHAIRMAN;

AND

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

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Suresh Kumar Sahoo, aged about 39 years,
C/o. late Gangadhar Sahoo, Vill/Po.
Sadanandapur, Dist. Balasore.

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APPLICANT.

By legal practitioner : M/s. P. K. Sahoo, P. K. Nayak, Advocates.

-Vrs.-

1. Union of India represented through
Chief Post Master General, Orissa
Circle, Bhubaneswar, Pin-751001.
2. Superintendent of Post Offices,
Balasore, At/Po. Balasore, Dist. Balasore.
3. Assistant Superintendent of Post Offices,
Balasore, At/Po/Dist. Balasore.
4. Rabinarayan Satpathy, C/o. Biswanath Satpathy,
Vill./Po. Sadanandapur, Dist. Balasore.

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RESPONDENTS.

By legal Practitioner : Mr. Bimbisar Das, Additional Standing
For Respondents 1 to 3. : Mr. Bimbisar Das, Additional Standing
Counsel (Central).

S. Som

By legal practitioner : M/s. Devashis Panda, Miss. D. R. Nanda,
For Res. No. 4. : M/s. Devashis Panda, Miss. D. R. Nanda,
Advocates.

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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 has prayed for quashing the appointment of Shri Rabinarayan Satpathy, Respondent No. 4, to the post of Extra Departmental Sub Postmaster, Sadanandapur Branch Post Office and has prayed for a direction to the Respondents to appoint the applicant to that post.

2. Facts of this case, according to the petitioner, are that for filling up of the post of Extra Departmental Sub Post Master, Sadanadpur Branch Post Office, applications were invited and in response to which, the petitioner had applied for the post of Extra Departmental Sub Postmaster. It is submitted that the petitioner has the requisite age and other qualifications. He is also a permanent resident of the Post village and was prepared to provide a rent free accommodation for functioning the Post Office. In response to his application, Assistant Superintendent of Post Offices, Balasore, Res. No. 3, in his letter dated 23-5-1992 directed the applicant to be present himself before the Respondent No. 3 on 29-5-1992 for verification of the original certificates/documents. Accordingly, his documents/certificates were verified. Applicant's case is that, even though, he is better qualified and he is more ^{not} meritorious, the Departmental Authorities are going to appoint him but they are going to select Respondent No. 4 who is the son of Sh. Biswanath Satpathy, who was earlier working as sub Post Master and had retired in April, 1992. It is further stated

to him

by the applicant that he has passed M.A. and because of his higher qualification, greater weightage should have been given to his candidature and that is why, he has come up in this application with the prayers referred to earlier.

3. Respondent No. 4 has been issued with notice but he has not appeared nor has he filed counter. Departmental Respondents, in their counter have stated that after super-annuation of the existing incumbent on 23-4-1992, for filling up of the Post of EDSPM, Sadanandapur BO, the Employment Exchange Officer, Balasore was asked to sponsor names and at the same time, applications were also invited through public notice. Employment Exchange Officer, Balasore, sponsored seven candidates who were asked to submit their applications with all necessary documents by 17-1-1992. Out of seven candidates, only one candidate, Respondent No. 4, submitted all the required documents. Further in response to public notice, only two applications were received and as such, all the three candidates were taken into consideration. Petitioner had submitted his application, in response to the public notice. Departmental Authorities have stated that the petitioner was not selected because he was holding ~~holding~~ ^{JJM} a wholesale medicine store at Basta Bazar situated at a distance of two KMS from the Post Office of Sadanandapur. This post office is provided with PCO facility and the office hour is from 10AM to 3 PM. It was apprehended that ~~the~~ ^{JJM} petitioner if selected, would not be able to serve the public at Sadanandapur Sub Post Office as he was otherwise engaged in the business during the working hours of the Post Office. Respondents have also stated that the

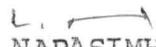
S. J. Das

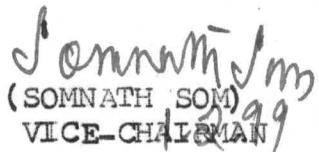
selected candidate, Respondent No. 4 is a man of Post village. He had highest Income certificate and adequate means of livelihood. He was also not engaged elsewhere. So far as the third candidate, Shri B.K.Sahu, it was pointed out that he did not have any landed property in his own name. In consideration of this, Respondents have stated that they have selected Respondent No. 4 over the present petitioner. It is also stated that the petitioner had also incurred loan of Rs. 30,000/-. As regards the Post graduate qualification of the applicant, Respondents have pointed out that the applicant has registered his name in the Employment Exchange indicating his educational qualification as Matriculation and he has not indicated his Post Graduate qualification. In consideration of the above, the Respondents have opposed the prayer of the applicant.

4. We have considered the submissions made by the learned Additional Standing Counsel Shri B.Dash and have also perused the records. It is no doubt true that the applicant is a post graduate whereas the selected candidate, Respondent No. 4 is I.A. At the relevant time, the minimum educational qualification for the post of EDSPM was Class-VIII passed with the condition that preference will be given to those who have passed matriculation. It was also provided that any qualification above matriculation will be ignored. In consideration of this, the fact that the applicant has passed Post graduate had not been taken into consideration by the Departmental Authorities. According to the instructions, the applicant as well as Respondent No. 4 have to be adjudged on the basis of the matriculation qualification. It is further stated by the Respondents that the applicant is holding a whole sale medicine

of J.M.

store at Basta Bazar, situated at a distance of two KMs from the Post Office and he spent most of the time in his medical store at Basta Bazar. It was apprehended by the Departmental Authorities that if the applicant, has been selected, he may not be able to devote adequate time to the work of the post Office which is for five hours from 10 am to 3 p.m.. The Departmental Authorities have also felt that as the applicant has incurred heavy loan it was not safe to allow him to deal with the public money. We find in this case, that the Departmental Authorities have duly considered the candidature of the petitioner but have selected Respondent No. 4 and have not selected the applicant on grounds, which can not be considered irrelevant or immaterial. As the applicant is running a shop in Basta Bazar, it is quite possible that he will not be able to devote adequate time for the work of the Post Office during the hours fixed for the same. In consideration of this, we find that the Departmental Authorities have not committed any mistake by selecting Respondent No. 4 over the applicant. The petition is, therefore, held to be without any merit and is rejected but in the circumstances, no order as to costs.

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(G. NARASIMHAM)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN