

3

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 237 OF 1993.

Cuttack, this the 2nd day of August, 1993.

Umesh Nayak. 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? *No.*

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
28.9.93

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 237 OF 1993.

Cuttack, this the 2nd day of August, 1999.

C O R A M :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

Umesh Nayak, S/o. Narasingha Nayak,
Village-Nuasahi, Po. Ist Line,
Jeypore, Dist. Koraput, at present
working as ED Packer-cum-M. C.,
Bidyadharpur SO, Jeypore(K), HO,
DIST. KORAPUT.

Applicant.

By legal practitioner: M/s. B. Routray, A. K. Mohanty, S. N. Biswal,
Advocates.

- Versus -

1. Union of India represented through
Director General of Posts,
Dak Bhawan, New Delhi.
 2. Senior Superintendent of Post Offices,
Koraput Division, Jeypore (K), Dist. Koraput.
 3. Sri Gidian Bidika, EDDA,
At-Jherubali SO,
PO. Raigarh, Sub Division,
Dist. Koraput.
 4. V. Ramana Rao, Jeypore (K) EDSO,
Jaypur Head Office, Dist. Koraput,
C/o. SDI (P), Jeypore.
 5. L. K. Hota, EDDA, At-P. R. Peta SO, Head
C/o. Jaypore Head Office, Po. Jeypore,
Dist. Koraput.
 6. Mehakal Beuri, EDSO, Jeypore Head Office,
At/Po. Jeypore, Dist. Koraput.

By legal practitioner: Mr. A. K. Bose, Senior Standing Counsel.
for Res. Nos. 1 to 2

By legal practitioner : Mr.D.P.Dhalsamant, Advocate.
for Res.Nos. 5&6.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: Application

In this Original Application, under section 1985, applicant has prayed for quashing the result of the Postman Recruitment Examination held in the year 1992 which was published in the order dated 29-3-1993, at Annexure-3. Second prayer is for a declaration that the applicant has been selected in the recruitment examination.

2. By way of interim relief, it was prayed that till the disposal of the Original Application, Respondents should be prohibited from taking any action in pursuant to the order at Annexure-2. On the date of admission of this Original Application on 13.5.1993, by way of interim relief, it was ordered that the result of the Original Application will govern the future service benefits of the applicant and in case in the meantime any appointment is made in pursuance of the order at Annexure-2, then such appointment shall be subject to the result of this application.

3. Applicant's case is that he is a matriculate and has been working as EDMC cum ED Packer, after having been regularly appointed to the post in order dated 12.7.89. His case is that prior to that from 10.9.1983 he was discharging the duties of the above post. Departmental Authorities invited applications for recruitment to the post of postman in Koraput Division. Applicant being eligible, applied and he was called upon to appear at a test held on 20.12.1992. He appeared in three papers i.e. i) Mathematics, ii) Postman

5
SOM

paper and ii) Dictation Test. He states that he has done very well in all the papers and he was confident to be selected. It is further stated by applicant that he came to know from reliable source that he has secured highest marks amongst all other candidates but there was serious manipulation and discrimination by the Superintendent of Post offices, Koraput Division, Respondent No. 2 and when the final result came out, vide Annexure-2, applicant was shocked to know that his name has not been included. Applicant filed a representation requesting Respondent No. 2 to communicate the marks obtained by him, to him and for this purpose, he deposited the required fee of Rs. 25/- but the mark-sheet was not communicated to him. In the context of the above facts, applicant has come up with the prayers referred to earlier.

4. Departmental Respondents 1 & 2, in their counter have admitted that applications were invited for filling up of the post of postman and in response to which, 259 applications have been received. 206 ED Agents were called to take the examination consisting of three papers, each having full marks of 50. Under the Rules, a candidate has to secure 45% of marks i.e. $22\frac{1}{2}$ marks in each paper to qualify in the said examination. It is further stated that according to rules 50% of posts are to be filled up by Departmental employees and 50% by ED employees who have completed three years of qualifying/satisfactory service. Of the 50% quota meant for ED employees, 25% of posts are to be filled up by ED Agents on merit basis and the rest

SJM

7 2

25% of vacancies are to be filled by the ED Agents on the basis of the length of service. The relevant rules are at Annexure-R/1. It is stated that for the year 1992, there were three vacancies as against Departmental quota and two vacancies as against outsider quota. The later covering the ED employees but as no departmental candidates qualified in the recruitment examination, as per the rules all the five vacancies were released to the Departmental quota. Respondents, in their counter have also indicated that out of the five vacancies, 2 were for general category, one for scheduled caste and one for scheduled Tribe. It is stated that on the basis of marks obtained by candidates, four persons came out successful and their names appear in order of merit at Annexure-2. So far as applicant is concerned, Respondents have pointed out in paper 'A', he got 10 marks, paper 'B' 32 marks and in paper C 26 marks out of 50 in each paper. Respondents have pointed out that as according to rules a candidate has to get 45% marks in each papers and as in paper A dealing with Mathematics he has secured only 10 marks out of 50, his name was not put in the select list, even though he has secured more marks in other two papers. On the above grounds, the Respondents have opposed the prayer of applicant.

S. Jam.

5. Private Respondents 3 to 5 have neither appeared nor filed counter, even though notices were issued to them. Private Respondent No.6 has appeared through learned counsel Mr.D.P.Dhalsamant but he has not filed any counter.

6. This matter came up for hearing from the warning list. In this 1993 matter pleadings have been completed long

8

ago. Today when the matter was called, learned counsel for applicant Mr. B. Routray and his Associates were absent nor was any request made on their behalf seeking adjournment. As this is a 1993 matter, where pleadings have been completed long ago, it was not possible to drag on the matter indefinitely. In view of this, we have heard Mr. A. K. Bose, learned Senior Standing Counsel appearing for the Departmental Respondents and Mr. D. P. Dhalsamant, learned counsel appearing for the Respondent No. 6 and have also perused the records.

7. In this petition applicant has challenged the result published vide Annexure-2 of the postman examination for 1992 vacancies. The ground on which he has challenged the result of the examination is that according to him he has done well in the examination but his name does not appear in the list of successful candidates. He has also stated that he has learnt that amongst the candidates, who had appeared in the examination, he has secured the highest marks but even though he has secured highest percentage of marks, his name has not appeared in the list of successful candidates. He has applied for a copy of the mark sheet which has also been communicated to him. Respondents have indicated that the marks which have been obtained by applicant and has also enclosed a copy of the mark sheet at Annexure-4. From this it is clear that the applicant has failed to qualify in paper A and therefore, his name has not been rightly included in the select list. The statement of the applicant himself

on 4.6.93.
S. J. Jam.

that he has done well can not be relied upon in the face of the actual marks obtained by him in the examination. In view of the above, we hold that the applicant has not been able to make out a case either for quashing the select list or for giving a direction to the Departmental Authorities to select and appoint him to the post of Postman against 1992 vacancies.

9. In the result the Original Application is dismissed. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
2.8.79

KNM/CM.