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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 375 OF 1993.

Cuttack, this the 11th day of August, 1999.

RABI NARAYAN NAIK.

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APPLICANT.

- Versus -

UNION OF INDIA & OTHERS.

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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)

S. N. S.
SOMNATH SOM
VICE-CHAIRMAN
18/8/99

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 375 OF 1993.
Cuttack, this the 11th day of August, 1999.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAI RMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDL.).

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Shri Rabi Narayan Naik,
Aged about 34 years,
Son of Arjun Naik,
At-Damkuda, Po-Damkuda,
via-Subdega, Dist. Sundergarh.

APPLICANT.

By legal practitioner: M/s. S. K. Das, S. B. Jena, A. K. Guru, Advocates,

-Versus-

1. Union of India represented by its Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi-1.
2. The Chief Postmaster General, Orissa Circle, Bhubaneswar.
3. The Postmaster General, Sambalpur Circle, Sambalpur.
4. Senior Superintendent of Post Offices, Sundergarh Division, Sundergarh.
5. Shri Santosh Kumar Nayak, Extra Departmental Branch Post Master, Damkuda Branch Post Office, At-Damkuda, Po-Ranpur, via. Subedega, Dist. Sundergarh.

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RESPONDENTS.

By legal practitioner: Mr. A. K. Bose, Senior Standing
Counsel (Central).

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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, applicant has prayed for quashing the selection of one Santosh Kumar Nayak, Respondent No. 5 , E.D. B.P.M., Damkuda Branch Post Office. Second prayer of applicant is for a direction to the Departmental Authorities to consider the candidature of all persons in the zone of consideration afresh for making appointment to the post, in question. For the purpose of deciding this matter, it is not necessary to go into too many facts of the matter as detailed by the applicant in his petition and Respondents in their counter. Applicant has challenged the selection and appointment of Respondent No. 5 firstly on the ground that Respondent No. 5 has passed matriculation in compartmental whereas applicant has passed matriculation in one chance and therefore, the applicant is more meritorious even though Respondent No. 5 has got higher marks than applicant. Second ground on which selection and appointment of Respondent No. 5 has been assailed is that there is an allegation that the land which the Respondent No. 5 has shown to have been owned by him has been mortgaged and Respondent No. 5 has taken loan against that land and he has defaulted in payment of loan, therefore, his financial condition is doubtful. Thirdly it is alleged that before an appointment is made to the post of E.D. B.P.M., his academic conditions will have to be verified by in this case, this has not been done. The last ground is that the application of

Respondent No.5 alongwith supporting documents have been received by the Departmental Authorities after the last date for receipt of application.

2. We have heard Mr.S.K.Das, learned counsel for Applicant and Mr.A.K.Bose, learned Senior Standing Counsel appearing for Respondents and have also perused the records.

3. So far as the last submission is concerned, Respondents in their counter have stated that Employment Exchange Authorities had sponsored 12 candidates who were asked to submit their detailed application with necessary documentation on or before 17-3-1993 and accordingly, 8 candidates including applicant and Respondent No.5 submitted their applications. Some of the candidates, whose names have been mentioned submitted their application, after the last date and they were not considered. Respondents have stated that the application of Respondent No.5 alongwith all necessary documents copies of which have been enclosed, to their counter, have been received by Respondent No.4 on 17-3-1993 which was fixed as the last date for receipt of application. In view of the above, this contention of the applicant is held to be without any merit and is rejected.

4. Another contention of learned counsel for applicant is that applicant having passed matriculation in one chance and Respondent No.5 having passed matriculation in compartmental, the applicant must be adjudged more meritorious. Respondents at page-5 of their counter have indicated the percentage of marks of all the 8 candidates and from this we find that the applicant had got 36.75%

S. J. AM

of marks whereas the selected candidate, Respondent No. 5 got 45% of marks. It has been submitted by learned counsel for applicant that Respondent No. 5 has passed matriculation in compartmental as mentioned in the Original Application and applicant has passed matriculation in one chance. In the Original Application, the applicant has made no averments that he has passed matriculation in one chance. Moreover, it can not be held that a person who has passed matriculation in compartmental is ~~more~~ ^{less} ~~John~~ meritorious than a person who has passed matriculation in one chance for the purpose of selection to the post of E.D.B.P.M. Admittedly, in this case, Respondent No. 5 has got higher marks than applicant taking into the marks secured by him in the compartmental examination. This contention is also, therefore, rejected. The last contention of learned counsel for applicant is that the applicant is not financially sound and he has taken loan against the property which he has shown to have been owned by him and has not repaid the loan. Under the Rules relating to appointment to EDBPM, it is only provided that a person selected as EDBPM must have independent means of livelihood and should not depend on the allowances which he would ~~earn~~ as EDBPM. Respondents have pointed out that enquiry has been made and the Respondent No. 5 was found eligible for the post of EDBPM. In view of this, this contention of the learned counsel for applicant is held to be without any merit and is rejected.

J. Com.

5. In the result, the Original Application
is rejected. No costs.

(G. NARASIMHAM)
MEMBER(JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN
H.S. 99

KNM/CM.