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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 493 OF 1993.

Cuttack, this the 17th day of August, 1993.

BIBHUTI BHUSAN PANDA.

...

APPLICANT.

- VERSUS -

UNION OF INDIA & ORS.

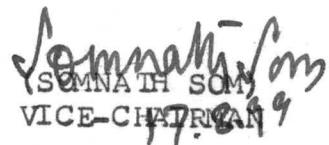
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RESPONDENTS.

(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)


SUMNATH SOM
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 493 OF 1993.

Cuttack, this the 17th day of August, 1999.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDL.)

....

Shri Bibhuti Bhusan Panda, Aged about 29 years,
son of Sri Sashi Bhusan Panda, of Village-
Raghunathpur, P.S-Kahal, Via.Kakatpur, Dist.Puri.

.... Applicant.

By legal Practitioner : M/s.S.S.K.Mohanty, & S.P.Mohanty,
Advocates.

-Vrs.-

1. Union of India represented by its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar.
3. S.D.I.P(Nimapara Sub Division), Nimapara, Puri.
4. Sri Narayan Rath, Son of Sri Lingaraj Rath, Vill-Raghunathpur Sasan, Po.Kahal, PS. Kakatpur, Dist.Puri, now working as EDMC, Kahal BO.

... Respondents.

By legal Practitioner : Mr.A.K.Bose, Senior Standing Counsel

(Central).

Som

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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 order dated 6-7-1993, at Annexure-2 appointing Narayana Rath, Respondent No. 4 to the post of EDMC, Kahal BO. He has also prayed for a direction to the Respondents to appoint the petitioner in the post of EDMC Kahal.

2. Departmental Authorities have appeared and filed counter opposing the prayer of applicant.

3. Private Respondent No. 4 though issued with notice, has ~~not~~ neither appeared nor filed counter.
J.Jm.

4. We have heard Mr. S. P. Mchatty, learned counsel for the Applicant & Mr. A. K. Bose, learned Senior Standing Counsel appearing for the Departmental Respondents and have also perused the records.

5. For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case. It has been pointed out by the petitioner that he had earlier filed an Original Application No.167 of 1993 before this Tribunal which was disposed of in order dated 19.5.1993 which is at Annexure-1 to the OA. In that OA No.167 of 1993, the petitioner had prayed for a direction to the Respondents to consider the case of the present applicant for appointment on regular basis in the post of EDMC Kahal Branch Office or in any other vacancy suitable to his qualification and experience. After hearing the parties, this Tribunal directed the Sr. Supdt. of Post Offices,

SJm

to personally consider the case of the present applicant and the other persons in the waiting list and after adjudicating the suitability of ~~both~~ persons, the person ^{all} ^{NSJm} who is found to be more suitable by the SSPO, should be appointed. After this order dated 14.5.1993, Respondent No. 4 was appointed in order dated 6.7.1993. That is how, the applicant has come upon this petition with the prayers referred to earlier.

6. It has been submitted by the petitioner that according to the instructions in force, only a person who has put in three years of service can be considered for alternative employment if his services are terminated and Respondent No. 4 in this case had put in less than three years of service. It has also been submitted that according to the instructions referred to by the learned counsel for the petitioner, such absorption of retrenched ED employees should be done in order of seniority and in this case, admittedly, applicant has put in more years of service than Respondent No. 4. We have considered the above submission of the learned counsel for the petitioner carefully. Respondents in their counter have pointed out that the Tribunal had specifically directed to consider the case of the petitioner as also the other persons in the waiting list which is Respondent No. 4 and they have considered Respondent No. 4 even though he had not completed three years of service in compliance with the above direction of the Tribunal. As the Tribunal had directed to consider the case of applicant and Respondent No. 4 and the order of this Tribunal has become final, the Departmental authorities were obliged to consider the case of Respondent No. 4 even though

NSJm

he had put in less than three years of service. This contention, is therefore, rejected.

7. As regards the second point that both of them should be considered on the basis of service i.e. length of service earlier served as ED Agent, on this point also the Tribunal had specifically directed that they should be considered on the basis of their suitability. Respondents have pointed out that Respondent No. 4 has passed matriculation whereas applicant has passed only class-VIII. In view of this, they have adjudged Respondent No. 4 to be more suitable than the applicant. We also find nothing illegal in this. Instructions do provide that the higher qualification upto matriculation can be taken into consideration and any qualification above matriculation is to be ignored. In view of this, Departmental Respondents have done nothing wrong in selecting the Respondent No. 4 to the post of EDMC Bahal BO. Respondents have also taken into consideration that Respondent No. 4 has passed matriculation more so the direction of this Tribunal to consider the suitability of both the persons and appoint the person who is found more suitable.

8. In view of this, we hold that the applicant has not been able to make out a case for any of the reliefs sought for in this Original Application and the Original Application is accordingly rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN