

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 535 OF 1993.

Cuttack this the 20th day of February, 1998.

TAPASWINI NAYAK.

....

APPLICANT.

-Versus-

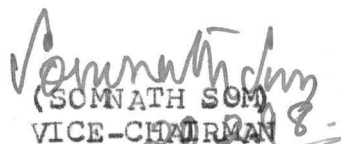
UNION OF INDIA & OTHERS.

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RESPONDENTS.

(For instruction)

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?


(SOMNATH SOM)
VICE-CHAIRMAN


(S.K. AGRAWAL)
MEMBER (JUDICIAL)

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C O R A M:-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND

THE HONOURABLE MR. S.K. AGRAWAL, MEMBER (JUDICIAL)

....

B E T W E E N:

Smt. Tapaswini Nayak, aged about 28 years,
W/o. Pitabasha Mohanty, At/Po. Padarbatia,
Via. Dhusuri, District-Bhadrak.

.... Applicant.

By legal practitioner :- M/s. S.K. Choudhury, S.R. Kanungo,
Advocates.

-Versus-

- 1) Union of India represented by Secretary,
Department of Posts, Government of India,
New Delhi.
- 2) Chief Postmaster General Orissa, Bhubaneswar.
- 3) Superintendent of post Offices, Bhadrak Division
Bhadrak.
- 4) Inspector, Department of Post, Bhadrak Division,
Bhadrak.
- 5) Ashok Kumar Sahu, S/o. Dibakar Sahu, At/Po.
Padarbatia, Via. Dhusuri, Bhadrak.

.... Respondents.

By Legal Practitioner :- Mr. Akhaya Mishra, Additional
Standing Counsel (Central).

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MR. S.K. AGRAWAL, MEMBER(JUDICIAL) :-

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. In brief, the facts of this case, as stated by the applicant, are that the applicant has applied for the post of Extra Departmental Branch postmaster, Pandarbatia Branch Post Office under Dhusuria Sub Post Office which was fallen vacant w.e.f. 19.10.1992 due to superannuation of Shri Shyam Sundar Mohanty. To fill up the said post, the Employment Exchange, Bhadrak was requested to sponsor the names of eligible candidates. The Employment Exchange, Bhadrak recommended the name of six candidates including the applicant to Respondent No.3, Superintendent of Post Offices, Bhadrak. Thereafter, Respondent No.3 sent application form to the applicant and others and the applicant filled up her application and sent the same to Respondent No.3 by Regd. Post. It is stated that the applicant had supplied all the informations alongwith required documents as asked by the Respondent No.3. The applicant was the only lady candidate for the said post. It is further submitted that the applicant has come to know that Respondent No.5 has been intimated by Respondent No.4 to join the training. Thereafter, she contacted the local postal Authorities but she was told that Respondent No.5 has already been selected for the

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post of Extra Departmental Branch Postmaster, Padarbatia Sub Post Office. It is submitted that applicant is an eligible candidate and being a lady having all requisite qualifications, she was sure to be appointed for the post in question. But Respondents 3 and 4, with mala fide intention have issued appointment letter in favour of Respondent No.5. It is also submitted that Respondent No.5 was working as Field Officer in the Peerless^{Company} and has been involved in criminal cases as accused whereas the applicant who is a lady with good physique and capability to work hard and having adequate knowledge of the locality, was not selected for the post for the reasons unknown to her. It is therefore, prayed that the order of appointment issued in favour of the Opp. Party No.5 to the Post of Extra Departmental Branch Postmaster, Pandarbatia in the District of Bhadrak, be quashed and Respondents 3 and 4 be directed to consider the case of the applicant on the basis of the particulars furnished by her in her application.

3. Counter was filed by the Respondents 1 to 4 in which it has been stated that the aforesaid post in question was fallen vacant due to superannuation of Shri Shyam Sundar Mchanty, the regular incumbent and to fill up the said post, Employment Exchange, Bhadrak was requested to sponsor names of the candidates. Thereafter, Employment Exchange, Bhadrak sponsored names of six candidates.

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All the six candidates were directed to submit application in the prescribed form alongwith required documents by 18.11.1992. It is further stated that one letter addressed to Tajalli Khan (MC) was received back undelivered. Out of the rest five candidates, three applicants namely S/Shri Ashok Kumar Sahu, Smt. Tapaswani Nayak (applicant) and Pitabas Mohanty were received before the due date i.e. 18.11.1992. But the candidature of Shri Pitabas Mohanty was rejected as he has not submitted the important documents such as Income Certificate, List of landed properties etc. Therefore, only two candidates Shri Ashok Kumar Sahu and Smt. Tapaswini Nayak (applicant) who have submitted all required documents with their applications were in the zone of consideration. It is further stated that Shri Ashok Kumar Sahu was involved in a GR Case No. 33/81 but vide judgment dated 2.2.1984 delivered by the learned Judicial Magistrate, First Class, Bhadrak, he was acquitted from the charges and Shri Sahu has passed B.A. and also secured second division in High School Examination with 49% of mark but Smt. Nayak (applicant) has secured only 45% mark in High School Examination. It is also stated that Shri Sahu was having Income of Rs. 7,000/- from Agricultural land whereas the income of Smt. Nayak (applicant) from the said source is Rs. 700/-. It is further stated by the Respondents that Shri Sahu has given application dated 8.2.93 declaring

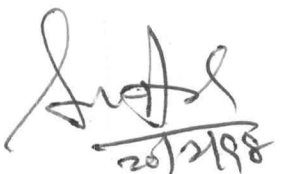
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that he has relinquished his peerless Agency as Field Officer with effect from 6.2.1993 which has also been accepted w.e.f. 7.2.1993. It is further submitted that as per D.G. Posts, New Delhi letter No.17-497/90-ED and Trg. dated 10.5.1991, preference is to be given to meritorious candidate and the selection is to be carried out on the basis of marks in the examination. Accordingly, Shri Ashok Kumar Sahu, who had secured higher percentage of marks than Smt. Nayak (applicant), in H.S.C. Examination was selected provisionally as Extra Departmental Branch Postmaster, Pandarbatia, Branch Post Office vide letter No. B/E-285, dated 18.9.1993 and after completion of the prescribed training, Shri Sahu joined as Extra Departmental Branch postmaster, Pandarbatia Branch Post Office with effect from 5.10.1993. It is, therefore, submitted that the applicant has no case and as such, she is not entitled to the relief sought for.

4. Respondent No.5 did not file counter inspite of sufficient opportunity given to him.

5. Heard learned Additional Standing Counsel Shri Akhya Mishra appearing on behalf of Respondents 1 to 4. Learned counsel for the applicant was absent on the date of hearing and inspite of opportunity given to him to file written note of submission, he did not file the same.

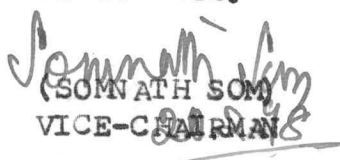
6. On the perusal of records, it appears that the applicant Smt. Nayak has passed High School Examination

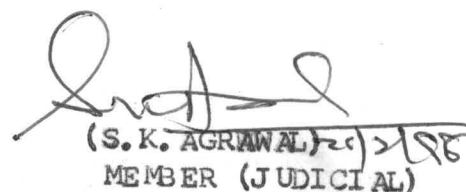

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in the year 1982 and had secured 330 marks out of 800 i.e. 45% whereas Shri Ashok Kumar Sahu has secured 395 marks out of 800 i.e. 49% of marks. It also reveals that against Shri Sahu, GR Case No. 33 of 1981 was instituted for the offence under section 457/330 IPC but vide judgment delivered by the learned Judicial Magistrate, First Class, Bhadrak dated 2.2.84, Shri Sahu and one Shri Prasanta Kumar Mohanty were acquitted of the charges levelled against them. On the perusal of the letter dated 8.2.93, submitted by Shri Sahu addressed to the Superintendent of Post Offices, Bhadrak Division, Bhadrak, it is crystal clear that he has relinquished the Post of Field Officer, in the Peerless Company w.e.f. 6.2.1993.

7. In view of the facts mentioned above, we are of the considered opinion that the applicant Smt. Tapaswini Nayak has failed to make out any case for appointment to the post of Extra Departmental Branch Postmaster, Padarbatia Branch Post Office in the District of Bhadrak, in preference to the Respondent No.5. Therefore, the application is devoid of merit and is liable to be dismissed.

8. We, therefore, reject the application filed by the applicant but in the circumstances without any order as to cost.


(SOMNATH SOM)
VICE-CHAIRMAN


(S.K. AGRAWAL)
MEMBER (JUDICIAL)