

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 593 OF 1993
Cuttack, this the 25th day of August, 1999

Tapan Kumar Sethi

Applicant

Vrs.

Union of India and 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*.

L.
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
25.8.99

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CUTTACK BENCH, CUTTACK.

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CORAM:

**HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)**

.....

Tapan Kumar Sethi, son of Ramanath Sethi, Village/PO-Malruan,
PS-Bhograi, District-Balasore .. Applicant

Advocates for applicant - M/s P.K.Giri
S.N.Misra

Vrs.

1. Union of India, represented by Director General of Posts,
Dak Bhawan, New Delhi-1
2. Chief Post Master General, Orissa, At/PO/PS-Bhubaneswar,
District-Khurda.
3. Superintendent of Post Offices, At/PO-Balasore,
District-Balasore.
4. Sub-Divisional Inspector (P), Jaleswar (East)
Sub-Division, Jaleswar, District-Balasore.
5. Asit Kumar Nadi, son of Rabindra Nandi,
Village/PO-Malruan, PS-Bhograi, District-Balasore.

..... Respondents

Advocate for respondents - Mr.J.K.Nayak,
A.C.G.S.C.

O R D E R
(ORAL)

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of
Administrative Tribunals Act, 1985, the petitioner has prayed
for quashing the appointment of respondent no.5 to the post of
EDDA-cum-EDMC, Malaruan B.O. The second prayer is for a
direction that the applicant should be selected and appointed
to that post.

2. The departmental respondents have appeared and filed counter opposing the prayers of the applicant. Private respondent no.5 though issued with notice did not appear nor did he file any counter.

3. The only ground on which the petitioner has assailed the selection and appointment of respondent no.5 is that he was the only SC candidate and he has stated that preference should have been shown to him. The departmental respondents in their counter have pointed out that the vacancy arose due to voluntary retirement of the existing incumbent and requisition was sent to the Employment Exchange Officer, Jaleswar, to sponsor names of candidates. Fifteen names were sponsored and on being asked to submit applications, seven candidates including the petitioner and respondent no.5 applied. Besides, another application from one SC candidate whose name was not sponsored by the Employment Exchange was also received. Out of eight candidates five candidates including the applicant were non-matriculates and three candidates including respondent no.5 passed Matriculation. The Rules provide that even though the educational qualification required for the post is Class VIII, Matriculates are to be preferred and as the selected candidate is a Matriculate he has naturally been preferred over the applicant. The applicant's submission that he should have been shown preference on the ground of his being a member of Scheduled Caste community cannot be accepted because the departmental respondents have pointed out that in that particular recruitment unit the minimum percentage of representation of SC persons had already exceeded. More particularly they have pointed out that total number of ED staff in the concerned recruitment unit was 120 as against which there are 20 employees belonging to SC community, the percentage therefore

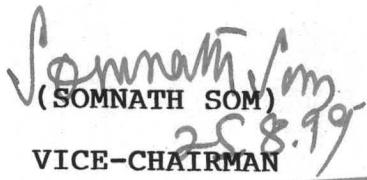
S. J. S. M.

coming to 16-2/3 as against the required percentage of 15. Because of this they have shown no preference to any SC candidate. It is further submitted by the learned counsel appearing for the petitioner that in the OA itself he has mentioned that selection of respondent no.5 has been done on pressure from political influence. We are unable to accept this because as is seen between the applicant and respondent no.5, the selected candidate, respondent no.5 is educationally more qualified.

4. In consideration of the above, we hold that the applicant has not been able to make out a case for the relief claimed by him in the OA which is accordingly rejected but without any order as to costs.


(G. NARASIMHAM)

MEMBER (JUDICIAL)


(SOMNATH SOM)
258.99
VICE-CHAIRMAN

AN/PS