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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 637 OF 1993

Cuttack, this the 26th day of August, 1999

Shri Madhusudan Pradhan 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*

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(G.NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN
26/8/99

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CORAM:

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

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**Madhusudan Pradhan, aged 23 years, son of Sri Kumar Pradha,
Vill/PO-Siso,District-Puri** Applicant

Advocates for applicant - M/s S.K.Mohanty
S.P.Mohanty

Vrs.

1. Union of India, represented by the Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar.
3. Chief Post Master General,Orissa Circle, Bhubaneswar.
4. Sub-Divisional Inspector (Postal), Nimapara, District-Puri.
5. Sri Sridhar Pradhan, son of Sri Prahallad Pradha, Village/PO-Siso,District-Puri... Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R
(ORAL)

SOMNATH SOM, VICE-CHAIRMAN

S. Som In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the selection of respondent no.5 to the post of EDBPM, Siso BO and for a direction to the departmental respondents to take up fresh selection.

2. For the purpose of considering this Application, it is not necessary to go into too many facts of the case except to note that the applicant had earlier come up before the Tribunal in OA No.643/92 challenging the selection of present respondent no.5 to the post of EDBPM, Siso, on the ground that respondent no.5 was an agent of Peerless. The Tribunal in their order dated 26.7.1993, while disposing of that OA, observed that the departmental authorities had taken the stand that respondent no.5 had ceased all connections with the Peerless Organisation and accordingly a statement was also taken from opposite party no.4 in that case who is respondent no.5 before us. The Tribunal noted that on the date of making the application and on the date of consideration of his application, respondent no.4 before them was very much attached to the Peerless Organisation. Therefore, the Tribunal directed that a fresh selection should be undertaken. In pursuance of the said direction, a fresh selection process was undertaken and opposite party no.5 was selected. The applicant has stated that respondent no.5 had secured appointment without getting a relief order from the Peerless organisation and on this ground he has challenged the selection of respondent no.5 and again asked for fresh selection.

3. The departmental respondents in their counter have pointed out that for the purpose of appointment as EDBPM, holding of agency of Peerless Organisation is no bar. They have given an extract of Rule 3 at Annexure-R/3 which states that persons holding posts under Government and quasi-Government organisations and those who are Government pensioners should not be appointed or nominated to vacancies in the Department or in Extra-Departmental posts. The departmental respondents have also stated that between the applicant and respondent no.5, respondent no.5 got highest.

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marks in Matriculation Examination and that is how he has been selected. On the above grounds, the departmental respondents have opposed the prayer of the applicant.

4. Private respondent no.5 was issued with notice but he neither appeared nor filed counter.

5. We have heard Shri S.P.Mohanty, the learned counsel appearing for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel appearing for the departmental respondents and have perused the records.

6. In view of the Rule, disqualification only attaches to persons who are working in Government and quasi-Government organisations and are Government pensioners. The fact of respondent no.5 being an agent of Peerless Organisation cannot be a bar on his appointment as EDBPM, Siso. Moreover, in the earlier OA, the Tribunal had noted the submissions of the departmental authorities that after his appointment respondent no.5 in the present application, who was respondent no.4 in the earlier OA, had ceased all connections with the Peerless Organisation, but the Tribunal ordered for fresh selection because on the date of application and on the date of issuing of the appointment order, respondent no.4 in that case had not ceased connection with the Peerless Organisation. Now that the departmental respondents have stated in the counter to the present OA that connection with the Peerless Organisation is no bar, it is not necessary to proceed with the matter further except for making one general observation. In the process of selection, respondent no.5, who has got the highest marks, has been selected and therefore he must be held to have been more meritorious amongst the candidates considered for selection to the post of EDBPM, Siso. In view of the above, we hold that the applicant has not been able to make out a case for the relief claimed by him.

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7. Before parting with the case, we would, however, like to observe that Peerless Organisation encourages small savings amongst the people and operates a system of insurance linked to the small savings deposits. One of the responsibilities of EDBPM is also to encourage small savings amongst the village people. In consideration of this, the departmental authorities are directed to consider if for the posts of EDBPM, whose responsibilities include encouragement of small savings habit amongst the people, the persons who are agents of another small savings organisation should be considered.

8. With the above observation and direction, the OA is disposed of. No costs. Let copy of this order be sent to Chief Post Master General, Orissa Circle, Bhubaneswar (respondent no.3) for further action.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
26.8.99
VICE-CHAIRMAN

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