

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 714 OF 1993.

Cuttack, this the 3rd day of September, 1999.

MADHUSUDAN DUTTA.

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APPLICANT.

VRS.

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)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
29/9/99

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C O R A M:

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

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MADHUSUDAN DUTTA,
Aged about 29 years,
Son of Bhagaban Dutta
of Village Jagai,
PO. Jagai, Via. Pratappur,
DISTRICT-BALASORE.

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APPLICANT.

By legal practitioner : M/s. A. Deo, B. S. Tripathy, P. Panda,
Advocates.

-VERSUS-

1. Union of India represented through
its Secretary, Department of posts,
Dak Bhawan, New Delhi.
2. Chief postmaster General,
Orissa Circle,
Bhubaneswar, Dist. Khurda.
3. Superintendent of post offices,
Balasore Division, Dist. Balasore.
4. Braja Kishore Pradhan,
At/Po. Jagai, Via. Pratap Pur,
Dist. Balasore.

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RESPONDENTS.

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

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S. Som.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN;

In this Original Application under section 19 of the Administrative Tribunals Act, 1935, applicant has prayed for quashing the selection of Respondent No. 4 for the post of Extra Departmental Branch Post Master(E.D.B.P.M. in short), Jagai Branch Post Office. The second prayer for a direction to the Respondents to appoint the applicant to the post.

2. Departmental Respondents have appeared and filed counter opposing the prayer of applicant. Private Respondent No. 4 was issued with notice but he did not appear nor did he file counter. This matter has come up today for hearing from the warning list notified more than a month ago. To-day, when the matter was called, learned counsel for the applicant Mr. A. Deo and his Associates were absent. No request has also been made on their behalf seeking adjournment. As in this matter pleadings have been completed long ago, it was not possible to drag on the matter indefinitely. We have, therefore,

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heard Mr. A.K. Bose, learned Senior Standing Counsel (Central) appearing for the Respondents 1 to 3 and have also perused the records.

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3. Applicant, in this Original Application, challenges the selection of Respondent No. 5 to the post of E.D.B.P.M. Jagai Branch Post Office. He had approached the Tribunal earlier in Original Application No. 346 of 1989 which was disposed of in order dated 10-2-1992. This Tribunal noted that Respondent No. 4 was selected after both the applicant and Respondent No. 4 were considered for the post. As in the process of selection only two persons were considered and not three persons as required under the Rules, this Tribunal directed fresh selection to be made calling for names and indicated that till fresh selection, Respondent No. 4, should be allowed to continue as EDBPM, Jagai Branch Post Office. In pursuance of the order of this Tribunal, fresh election was made and Departmental Authorities have selected Respondent No. 4 and he is also working in the post of EDBPM, Jagai Branch Post Office. Applicant has challenged the selection of Respondent No. 4 on the ground that applicant is more solvent than

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Respondent No.4 and he has past experience of working in the post which was earlier held by his father. It is further stated that Respondent No.4 has not provided any accommodation for the post office, which is still continuing in the accommodation provided by applicant's father in his own house. Lastly, it is stated that the applicant is more meritorious and should have been selected but his case has been arbitrarily and illegally ignored.

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4. From the pleadings of the parties, it appears that Departmental Respondents have indicated that the selected candidate, i.e. Respondent No.4 has provided a room for holding the post office and the post office is functioning in the house provided by Respondent No.4 and not in the building/house which was provided by the applicant's father when he was continuing as EDBPM. In view of this specific submission of the Departmental Authorities, and in view of the fact that applicant has not produced any evidence in support of his contention that Respondent No.4 has not provided accommodation for holding the post office, ~~this~~ contention of the ~~learned counsel for~~ applicant is held to be without any merit and is rejected.

J Som.

J Som.

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5. Secondly higher level of Solvency is not a determining factor for selection to the post of EDBPM. Departmental rules/instructions provide that between the candidates, candidate with the highest percentage of marks is to be selected. Respondents have pointed out that Respondent No. 4 has got 319 marks in HSC Examn. whereas, applicant has got 260 marks in HSC Examination. In view of this, Departmental Authorities have been right in selecting Respondent No. 4, who has got more marks than the applicant in the HSC examination.

6. In consideration of the above, we hold that this Original Application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
3.9.19

KNM/CM.