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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

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ORIGINAL APPLICATION NO.67 OF 1993
Cuttack this the 14th day of October, 1998

PRONOUNCED IN THE OPEN COURT

Biswajit Parida

Applicant

-Versus-

Union of India & Others

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes .
2. Whether it be circulated to all the Benche of the Central Administrative Tribunal or not ? NO .

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
14.10.98

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 67 OF 1993
Cuttack this the 14th day of October, 1998

CORAM:

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

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Biswajit Parida, aged about 23 years
Son of Kartik Chandra Parida
of Village/PO:Pallasingha, P.S.
Pattamundai, District:Cuttack

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Applicant

By the Advocates:M/s.A.R.Das
N.Lenka
B.K.Dagara

-Versus-

1. Union of India represented through
The Secretary, Department of Post
Dak Bhawan, New Delhi
2. Superintendent of Post Office,
Cuttack North Division, Cuttack
3. Chief Post Master General,
At/PO/P.S/Town:Bhubaneswar
District:Puri
4. Smt.Premalata Ray,
W/o.Adaita Prasad Ray,
At/PO:Pallasingha, P.S.Pattamundai
District:Cuttack

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Respondents

By the Advocates:Mr.Ashok Mishra,
Standing Counsel
(Res. 1 to 3)

M/s.D.N.Mishra
R.N.Naik
A.Deo
B.S.Tripathy
P.Panda
D.K.Sahu
(For Res.4)

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ORDER

MR.SOMNATH SOM, VICE-CHAIRMAN:In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the appointment of Respondent No.4 for the post of Extra Departmental Branch Post Master, Pallasingha Branch Office and for a direction to respondents to appoint him to the said post.

2. On the date of admission of this Original Application the prayer for interim relief was dismissed subject to the condition that the result of the application would govern future service benefits of the petitioner. The controversy here is regarding appointment to the post of E.D.B.P.M., Pallasingha B.O.. For filling up of this post the departmental authorities called for names from the employment exchange and the name of the petitioner and Respondent No.4 along with two others were forwarded by the employment exchange. It is submitted by the learned counsel for the petitioner that even though in the requisition to the employment exchange, the qualification was mentioned as Matriculate, the employment exchange authorities have forwarded the name of Res.4 who is a Graduate. It is further submitted that Res.4 was the lone Graduate whose name was sponsored by the employment exchange. It is further submitted that because Res.4 was a Graduate, preference has been shown to her and she has been wrongly appointed even though she does not know cycling which is a necessary requirement for the post of E.D.B.P.M.

3. The departmental respondents in their counter

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have pointed out that even though Res.4 is a Graduate, while considering candidature of the petitioner and Res.4 along with two other persons, the departmental authorities have gone by the marks obtained by each of them in the Matriculation examination. Respondent No.4 secured highest percentage of marks, i.e. 42.28%, while the next candidate Shri P.Parida secured 40.50% marks, the third candidate Shri B.Parida secured 34.14% marks and the fourth candidate Shri S.Parida secured 33.87% marks. It is to be noted that S/Shri P.Parida, B.Parida and S.Parida were all Matriculates. Candidature of one Shri A.Behera was rejected and was not taken into consideration because he did not have any landed property in his own name. On the last occasion we had directed the learned Senior counsel Shri Ashok Mishra appearing on behalf of the respondents to produce the selection file and accordingly selection file has been produced by him and we have perused the same.

4. Respondent No.4 has also filed a counter in which she has claimed that she has rightly been selected as she is the most suited candidate for the post of E.D.B.P.M. and possessed all the necessary qualification and on that ground Respondent No.4 has opposed the prayer of the petitioner.

Jdm

5. We have considered the submissions made by the learned counsel for both sides and also perused the record including the selection file. It has been correctly submitted by the learned counsel for the petitioner that amongst the five candidates whose name was sponsored by the employment exchange, Respondent No.4

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was the lone Graduate, but that would not disentitle her for being considered for the post of EDBPM. According to rules the selection to the post of E.D.B.P.M. should be based on the marks secured in the Matriculation examination. It is also specifically mentioned that no weightage need be given for any qualification higher than the Matriculation. From this it is clear that persons having higher qualification than Matriculation can also be considered, but their higher qualification should not be given any weightage. Therefore, consideration of candidature of Res.4 to the post of EDBPM, Pallasingha B.O. cannot be said to be not in accordance with rules. It is further submitted by the learned counsel for the petitioner that employment exchange authorities have shown favouritism to Respondent No.4 by forwarding her name. Whatever it may be, once the name of Res.4 has been sponsored by the employment exchange, the departmental authorities are bound to consider her candidature, moreso when she was eligible to be considered for the post of EDBPM. According to rules, amongst the qualified candidates selection should be made on the basis of highest percentage of marks secured in the Matriculation examination. We find from the selection file that Res.4 has got the highest percentage of marks, i.e. 42.28 in the Matriculation examination whereas petitioner in this case is not the 2nd candidate in the select list. Above the petitioner there is another person, viz. Shri P.Parida, who is also a Matriculate ^{and} has secured 40.50%. ^{1 Jom had} Therefore, even if the application of Res.4 ^{Jom} could not have been considered then the petitioner in this case

J. Jom.

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would not have been the person to be selected. The next point urged by the learned counsel for the petitioner is that Respondent No.4 does not know cycling. This is not a required qualification for the post of E.D.B.P.M. Therefore, selection of Res.4 cannot be questioned on the ground of her not knowing cycling. In view of the above we hold that the applicant has not been able to make out a case for any of the relief prayed for in this application. The O.A. is, therefore, rejected leaving the parties to bear their own costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO

Somnath Som
12.10.98
(SOMNATH SOM)
VICE-CHAIRMAN