

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.71 OF 1993
Cuttack, this the 19th day of March, 1998


Surendra Sahu Applicant

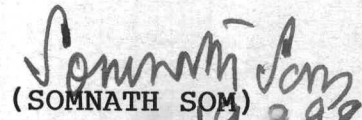
Vrs.

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.


(S.K.AGARWAL) 19/3/98
MEMBER (JUDICIAL)


(SOMNATH SOM) 19.3.98
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI S.K.AGARWAL, MEMBER(JUDICIAL)

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Surendra Sahu,
aged about 26 years
son of Udayanath Sahu,
At-Chainpur,
PO-Motary, Via-Delang, Dist.Puri ... Applicant

By the Advocates - M/s Devananda Misra,
R.N.Naik,
A.Deo, &
B.S.Tripathy.

Vrs.

1. Union of India,
represented through its Secretary,
Department of Posts,
Dak Bhavan, NewDelhi.
2. Chief Postmaster General,
Orissa Circle,
At/PO-Bhubaneswar, Dist.Puri.
3. Senior Superintendent of Post Offices,
Bhubaneswar Division,
At/PO-Bhubaneswar,
Dist.Puri.
4. Sub-Divisional Inspector (Postal),
Bhubaneswar South Sub-Division,
At/PO-Bhubaneswar, District-Puri.
5. Sarat Chandra Nayak,
At-Sabarasahi, BJB Nagar,
Bhubaneswar-14, Dist.Puri.
6. Mohan Parida,
Extra-Departmental Delivery Agent,
BJB Nagar Sub Post Office,
Bhubaneswar-14, District-Puri Respondents

*Commenced
19.3.98*

By the Advocates -

Mr. Ashok Misra,
Sr. Panel Counsel
(for Respondents 1
to 4)
And
M/s C. Behera,
K.K. Barik &
B.B. Panda (For
Respondent no. 6)

O R D E R

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 as E.D. Packer and the appointment of respondent no. 6 as E.D.D.A. in B.J.B. Nagar Sub-Post Office, and has also prayed for a direction to the departmental respondents to appoint the applicant in any of the posts in B.J.B. Nagar Sub-Post Office.

2. Facts of this case, according to the applicant, are that in response to a public notice for filling up of the posts of E.D. Packer and E.D.D.A. in B.J.B. Nagar Sub-Post Office, the petitioner submitted his application for both the posts. Respondent nos. 5 and 6 also submitted their applications. Respondent no. 5 claimed to belong to Scheduled Caste and respondent no. 6 to Scheduled Tribe. The applicant is a Graduate and should have been given preference as he had higher qualification, but his case was ignored. Respondent no. 6 did not produce the certificate showing that he belongs to

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Scheduled Tribe, but even then a letter of appointment was issued to him. Subsequently, he produced a certificate from the Revenue Inspector who is not authorised to issue such a certificate showing that he belongs to Scheduled Tribe. It has also been submitted that the departmental authorities should not have shown preference to respondent no.5 and respondent no.6 for appointment as E.D.Packer and E.D.D.A. respectively on the ground of their belonging to Scheduled Caste and Scheduled Tribe. It is also submitted that respondent no.6 is not a resident of B.J.B.Nagar area and as such his appointment as E.D.D.A. is in violation of the departmental rules.

3.The departmental respondents have filed counter in which they have stated that selections of respondent nos. 5 and 6 have been made strictly in accordance with the departmental rules and instructions. Under the Rules, preference was to have been given to persons belonging to S.C. and S.T. communities and that had been done while selecting respondent no.5 who is a Scheduled Caste candidate and respondent no.6 who is a Scheduled Tribe candidate for the posts of E.D.Packer and E.D.D.A. respectively. It has also been submitted that higher qualification of the applicant being a Graduate could not have been taken into consideration under the Rules. It is also submitted that respondent no.6 had produced a Scheduled Tribe

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certificate from the appropriate authority and had also produced a residence certificate.

4. Respondent no.6 has also filed a counter in which he has stated that he had produced all required certificates at the time of his appointment and his appointment as E.D.D.A. has been rightly done. Respondent no.5, even though notice has been served on him, has not filed a counter.

5. We have heard Shri B.S.Tripathy, the learned lawyer for the applicant, Shri Ashok Mishra, the learned Senior Panel Counsel appearing for respondent nos. 1 to 4, and Shri C.Behera, learned lawyer for respondent no.6, and have also perused the records.

6. Before proceeding further, it has to be stated that in O.A.No.435 of 1992, another applicant for the post of E.D.D.A. had challenged the appointment of present respondent no.6 to the post of E.D.D.A. Shri B.S.Tripathy, Advocate, has appeared and argued on behalf of that applicant in O.A.No.435/92. We have today by a separate order upheld the appointment of present respondent no.6 as E.D.D.A, B.J.B.Nagar Sub-Post Office and in view of this, it is not necessary to deal further with the case of respondent no.6 in this application.

7. As regards respondent no.5, according to the departmental instructions, for the post of E.D.Packer, required


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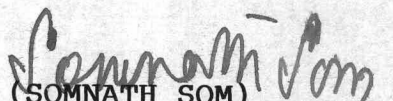
educational qualification is sufficient working knowledge of Regional language and knowledge of simple arithmetic. Respondent no.5 who has been appointed as E.D.Packer is a Matriculate. Thus he has the necessary qualification for the post of E.D.Packer. Under the Rules, there is no provision for giving any weightage for higher qualification of the applicant who is a Graduate and as such this ground for challenging the appointment of respondent no.5 as E.D.Packer must be rejected.

8. The second ground of attack on the appointment of respondent no.5 is that he has been selected on the ground of his being a Scheduled Caste candidate. According to the learned lawyer for the applicant, no preference should have been shown to a Scheduled Caste candidate. According to the instructions of the Department enclosed at Annexure-R/7 preference has to be given to the candidates belonging to Scheduled Castes and Scheduled Tribes while filling up the posts of E.D.Agents to enforce the percentages fixed for S.C. and S.T. It has also been clarified that enforcement of percentage is only for the purpose of meeting the minimum level and beyond the percentages also, S.C. and S.T. candidages can be given preference. In consideration of this, we find nothing wrong in the departmental authorities giving preference to respondent no.5 on the ground of his being an S.C. candidate.

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9. In consideration of all the above, we find no merit in the prayer of the petitioner to quash the appointment of respondent nos. 5 and 6 to the posts of E.D.Packer and E.D.D.A. The application, therefore, fails and is rejected but, under the circumstances, without any order as to costs.


(S.K. AGARWAL) 15/3/98
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN 19.3.98

AN/PS