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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 501 OF 1994.
Cuttack, this the 5th day of December, 2000.

Bibhuti Bhusan Nayak.

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Applicant.

VKS.

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.

(D. V. R. S. G. DATTATREYULU)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
Shalabh

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 501 OF 1994.

Cuttack, this the 5th day of December, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. D. V. R. S. G. DATTATREYULU, MEMBER(JUDL.).

Bibhuti Bhushan Nayak, Aged about 26 years,
Son of Banchhanidhi Nayak, At and Po: Athagarh Patna,
via. Polesora, Dist. Ganjam.

: Applicant.

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

- Versus -

1. Union of India represented by the Secretary
to Government of India, Department of Posts,
Dak Bhawan, New Delhi.
2. Chief Postmaster General, Orissa Circle,
At Po: Bhubaneswar, Dist. Khurda.
3. Postmaster General, Berhampur Circle,
At Po: Berhampur, Dist. Ganjam.
4. Dayanidhi Sethi, Aged about 23 years,
Son of late Shyama Sethi,
At Po: Athagarh-Patna, via. Polesora,
Dist. Ganjam.

: Respondents.

By legal practitioner for Respondents 1 to 3: Mr. A. K. Bose, Sr. Standing
Counsel (Central)

J.Som
for Respondent No. 4: M/s. D. S. Misra,
K. K. Misra,
S. Behera,
Advocates.

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ORDER

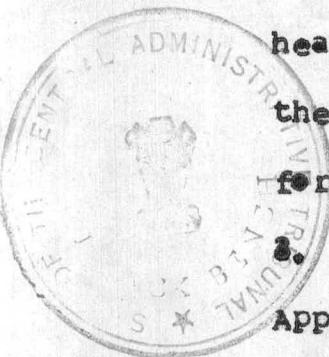
MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original application, under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the appointment of Respondent No. 5 to the post of Extra Departmental Branch Post Master, Athagarh Patna Branch Post Office and for a direction to the Departmental Respondents to select him as EDBPM. Departmental Respondents have filed counter opposing the prayers of the applicant. Private Respondent No. 5 has appeared through his counsel but has not filed any counter.

2. When the matter was called, learned counsel for the applicant and his associates were absent. No request has also been made on their behalf seeking adjournment. As this is a 1994 matter, where pleadings have been completed long ago, it can not be allowed to drag on indefinitely. We have, therefore, heard Mr. A. K. Bose, learned Senior Standing Counsel appearing for the Respondents 1 to 4 and Mr. D. S. Mishra, learned counsel appearing for Respondent No. 5 and have also perused the records.

3. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case.

4. The admitted facts of this case are that the vacancy arose on the retirement on superannuation of the father of the applicant on 9.6.1993. It is also the admitted position that in the process of selection both the applicant and Respondent No. 5 were considered. Applicant having secured more marks than the Respondent No. 5 he was initially considered for appointment to the post. Alongwith his application, the applicant has filed an



income certificate showing his income as Rs.10,000/- at the time of verification of the documents, the Tahasildar, Kedala who had issued the Income Certificate had made an endorsement on the Income Certificate, which is at Annexure-3 alongwith the endorsement of the Tahasildar, Kedala that the Misc. case in which the income certificate issued has been re-opened and it has been held by the Tahasildar that the applicant does not have the income of Rs.10,000/- and therefore, the prayer of the applicant for issuing an Income certificate has been rejected by the Tahasildar. In this order dated 22-9-93, Xerox copy of which is available at the back of Annexure-R/3. As the income certificate earlier given to the applicant has been rejected by the Tahasildar in law, there was no valid income certificate alongwith the application of the applicant and in view of this, Respondents have no other option but to select the candidate who has got the next higher marks in the qualifying examination i.e. matriculation. In view of this the action of the Departmental Respondents in selecting Respondent No. 5 can not be faulted.

5. Application is therefore held to be without any merit and is rejected. No costs.

(D. V. R. S. G. DATTATREYULU)
MEMBER (JUDICIAL)

KNM/CM.



Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN