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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 583 OF 1994
Cuttack, this the 28th day of March, 2000

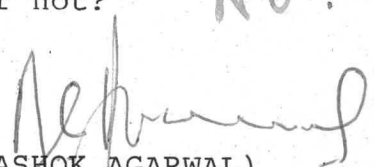
Smt. Indira Padhy Applicant

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 .


(ASHOK AGARWAL)
CHAIRMAN


(SOMNATH SOM)
VICE-CHAIRMAN

28.3.2000

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 583 OF 1994
Cuttack, this the 28th day of March, 2000

CORAM:

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
AND
HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

.....
Smt. Indira Padhy, 21 years, w/o Pratap Ch. Padhy, Sihala,
P.S-Golanthara, District-GanjamApplicant

Advocates for applicant - M/s S.B.Jena
S.K.Das
J.Sengupta.

Vrs.

1. Union of India, represented through
Secretar-cum-Director General of Posts, New Delhi.
2. Post Master General, Berhampur Region, Berhampur,
Ganjam.
3. Senior Superintendent of Post Offices, Berhampur,
Ganjam.
4. Sri Kishore Ch. Padhy, E.D.B.P.M , Sihala, P.O-Sihala,
Via-Golanthara, Dist.GanjamRespondents.

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

O R D E R
(ORAL)

SOMNATH SOM, VICE-CHAIRMAN

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In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order of appointment issued in faour of Kishore Ch. Padhy respondent no.4) in the post of EDBPM, Sihala and also for quashing the order dated 1..194 at Annexure-7 rejecting her representation.

2. Facts of this case, according to the petitioner, are that she applied for the post of EDBPM, Sihala, in response to the adertisement at Annexure-1 with necessary documentation. According to the

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applicant, there were only four candidates including her and amongst these four, she had secured the highest percentage of marks in the Matriculation Examination. More specifically it has been stated that the applicant has secured 314 marks whereas the selected candidate (respondent no.4) has secured 301 marks in the Matriculation Examination. The applicant has stated that ignoring the departmental instructions that the person who has got highest percentage of marks, must be taken to be most meritorious, respondent no.4 has been appointed ignoring her case. Her representation has also been rejected in the order at Annexure-7. That is why she has come up in this petition with the prayers referred to earlier.

3. Respondent no.4, the selected candidate was issued with notice, but he neither appeared nor filed counter.

4. The departmental respondents in their counter have admitted that amongst the four persons the petitioner got the highest percentage of marks. They have stated that along with her application, the petitioner submitted an income certificate issued by the Tahasildar, Konisi, showing her annual income from agriculture as Rs.5000/- and from salary, as Rs.9000/-. The departmental respondents have stated that as the applicant is an unemployed lady in the village, her income from salary cannot be Rs.9000/- per year. They have also stated that the applicant did not have any land in her own name and therefore, her income of Rs.5000/- from agriculture is also without any basis. It is further submitted by the departmental respondents that the applicant did purchase some land and file the sale deed with the departmental

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authorities, but that was after the last date for receipt of applications and therefore, it has been stated by the departmental respondents that the purchase of this land by the applicant has no bearing on the income of Rs.5000/- from agriculture. Thirdly, it has been submitted by the departmental respondents that as the applicant at the relevant point of time, did not have any agricultural land in her own name, her case could not have been considered. On the above grounds, they have opposed the prayer of the applicant.

5. We have heard Shri P.R.J.Das, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the departmental respondents and have also perused the records.

6. The departmental instructions clearly provide that amongst the eligible candidates, the person with the highest percentage of marks in the Matriculation Examination will be taken as most meritorious. In this case admittedly the applicant has got highest percentage of marks, but her candidature has been rejected on the aforesaid grounds mentioned by the departmental respondents in their counter. We note that before rejecting the income certificate which has been issued by the local Tahasildar, who is the appropriate authority for issuing such income certificate, the departmental authorities have not issued any notice to the applicant and have not heard her version with regard to the genuineness of the income certificate. It has been submitted by the learned counsel for the petitioner that the applicant by remaining in her house is earning income by tailoring and stitching and such income has been

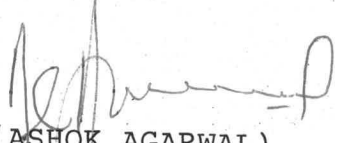
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mentioned against the heading "Salary" because there is no separate heading for this. We do not want to go into this aspect of the matter because we feel that before rejecting the income certificate, which has been issued by the Tahasildar and when such rejection has resulted in adverse consequences to the applicant, the departmental authorities should have given her an opportunity of being heard. As regards the other aspect that the applicant at the relevant point of time did not have any land in her own name, we note that the departmental instructions only provide that the selected candidate must have adequate means of livelihood. In view of this, the contention of the departmental respondents is held to be without any merit and is rejected.

7. In the light of the above discussion, we dispose of this O.A. with a direction to the departmental authorities that they should issue a notice to the applicant and after hearing the applicant, take a view on the genuineness of the income certificate. In case ultimately the income certificate which is at Annexure-4 of the O.A. is held to be genuine by the departmental respondents, then the respondents should take up a fresh selection for the post of EDBPM, Sihala, keeping the consideration confined to the four candidates who had applied in response to the notice at Annexure-1. In view of this, the appointment of respondent no.4 to the post of EDBPM, Sihala, is quashed. We however make it clear that till the above action is taken by the departmental respondents, respondent no.4 will continue in the post of EDBPM, Sihala.

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8. With the above direction and observation, the Original Application is disposed of. No order as to costs.


(ASHOK AGARWAL)
CHAIRMAN


(SOMNATH SOM)
VICE-CHAIRMAN

AN/PS