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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.651 OF 1994
Cuttack this the 3rd day of January, 2000

Umakant Sahu

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

3.1.2000
(G.NARASIMHAM)
MEMBER(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 651 OF 1994
Cuttack this the 3rd day of January, 2000

CORAM:

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

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Sri Umakant Sahu
S/o. Duryodhan Sahu
At: Govindpur, PO: Chutur
Dist: Keonjha

...

Applicant

By the Advocates : M/s.B.M.Patnaik
R.N.Mishra
S.H.Ali

-Versus-

1. Union of India represented through
Director General, Department of Posts
India Dak Bhawan, Sansad Marg
New Delhi-110001
2. Superintendent of Post Offices
Keonjhar Division, Keonjhargarh
Dist: Keonjhar
3. Asst.Superintendent of Post Offices
Keonjhar (North) Sub-Division
Keonjhargarh, Dist: Keonjhar
4. Satyabadi Giri, S/o. Adikanda Giri
Vill: Sirispal, PO: Kodipasa
Naranpur, Dist: Keonjhar

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Respondents

By the Advocates : Mr.A.K.Rose
Sr.Standing Counsel
(Central)

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): In response to notification dated 2.6.1994 to fill up the vacant post of Extra Departmental Branch Post Master, Kodipasa Branch Office in account with Naranpur S.O. three candidates including applicant and Res.4 were the candidates for selection. Res.4 was ultimately selected and appointed.

In this application for quashing selection and appointment of Res.4, the applicant takes the plea that he had secured higher percentage of marks in H.S.C. examination than Res.4 and Res.4 is also otherwise disqualified because he has a relation, ~~viz.~~ ^{of} Shri Kamal Pradhan, who is working as F.D.D.A. in that office.

2. Respondent 4 though duly noticed had not entered appearance.

The Departmental respondents in their counter admit that the applicant had secured higher percentage of marks in H.S.C. examination than Res.4. Out of the three candidates in the consideration zone, one candidate did not submit any income certificate and as such his case was not considered. Between the applicant and Res.4 the latter submitted a Registered Deed showing possession of landed property measuring Ac.2.51 dec.(Annexure-R/2) while the applicant submitted a Registered Deed showing the landed property measuring 0.05 Dec. only. While Res.4 submitted income certificate issued by the competent revenue authority in Misc.Case No.1473/94 disclosing annual income from agricultural land at Rs.4000/- and from other source Rs.3000/-, i.e. Rs.7000/- in total(Annexure-R/3), the income certificate of the applicant issued in Misc.Case No.1480/94 reveals his

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 income from agricultural sources as nil though his income from salary is Rs.12,000/-(Annexure-2 series). As per the departmental guidelines selection to the post of E.D.B.P.M. is also made on the basis of independent source of income from agricultural and and/or immovable property. Besides passing the H.S.C. examination, Res.^A is fulfilled these conditions than the applicant, who is having only Ac.0.05 Dec. of meagre landed property and have no income from agricultural source. His income from salary cannot be taken into account because once he accepts this assignment of E.D.B.P.M., he will lose that income from the salary. Though E.D.D.A. Shri Pradhan is relation of Res.^A, yet he is not a very near relation of Res.^A and as such this cannot be a disqualification.

3. Applicant has not filed any rejoinder.

4. We have heard Shri B.M.Patnaik, learned counsel for the applicant and Shri A.K.Bose, learned Sr.Standing Counsel appearing for the respondents. Also perused the records.

As per the prevailing departmental rules for the recruitment to the post of E.D.B.P.M., so far as educational qualification is concerned, marks secured in the Matriculation or equivalent examination is the criterion. In other words candidate securing higher percentage of marks in the Matriculation than other candidates is normally to be selected. There is also another qualification, i.e., the person, who takes over the Agency must be one having adequate means of livelihood. In D.G.(Posts) Circulars dated 6.6.1988 and 12.3.1993, as mentioned at pages 68 and 69 of Swamy's Compilation of E.D.Staff Rules(1995 Edition), it has been made clear that criterion to judge "adequate means of

liveliness" should be that in case he loses his main source of income, he should be adjudged as incurring disqualification to continue as E.D.S.P.M./F.D.B.P.M. In other words, there must be absolute insistence on the adequate source of income of F.D.B.P.M./E.D.S.P.M. and the allowances for his work must be just supplementary to his income. Further in Directorate letter dated 6.12.1993(Annexure-R/5) it is ~~however~~, made clear that the F.D.B.P.M. should have adequate means of independent livelihood. Thus, as per this guideline it is clear that the person to be selected and appointed as F.D.B.P.M. must have adequate income from lands or other immovable properties. The income certificate(Annexure-R/3) reveals that Res.4 has only income of Rs.4000/- from agricultural land and Rs.3000/- from other source(immovable property). The income certificates of the applicant under Annexure-2 series on the other hand reveals that he has no income at all from any source excepting Rs.12, 000/- from salaries. It is thus clear that the applicant has no adequate means of livelihood as required by the departmental guidelines. Hence he is disqualified to be appointed as F.D.B.P.M. So far as Res.4 is concerned, he has admittedly passed the H.S.C. examination and has adequate means of livelihood. Viewed from this angle his selection and appointment to the post in question in preference to applicant was not legally unjustified.

It is also the grievance of the applicant that ~~the~~ Respondent 4 is the near relative of E.D.D.A. Kamal Pradhan working in that office. In D.G.(P&T) circular dated 17.10.1966 it ^{has been} mentioned at Page 6 of Swamy's Comilation of 1995 Edivision(F.D.Staff Rules), ^{that} /very near

relation should not be appointed to work as F.D.B.P.M. or other F.D.Agent in the same office, as this is fraught with the risk of frauds etc. Hence question for consideration is whether Res.4 is very near relation of Kamal Pradhan, who is working as E.D.D.A. in that office. In the counter it is admitted that Res.4 is the maternal uncle of E.D.D.A. This is also admitted by both of them vide Annexures-R/7 and R/8. However, it is pleaded that he is not a very near relative of Kamal Pradhan, E.D.D.A. Whether a maternal uncle is a very near relative or not is academic, because the Apex Court in *Baliram Prasad vs. Union of India & Ors.* (AIR 1997 637) observed that candidature of a more meritorious candidate cannot be rejected on the ground that his relation is working in that office and held this circular ^{was} hit by Article 14 of the Constitution. This being the position, appointment and selection of Res.4 cannot be quashed on the ground that his relation Shri Kamal Pradhan is working as E.D.D.A. in that office.

In the result, we see no merit in this application which is accordingly dismissed leaving the parties to bear their own costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *3.1.2007*

B.K.SAHOO

3.1.2007
(G.NARASIMHAM)
MEMBER(JUDICIAL)