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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 761 OF 1994  
Cuttack, this the 5th day of October, 1999

Prasant Kumar Rout ..... 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.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

(SOMNATH SOM)  
VICE-CHAIRMAN  
5-10-99

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK

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ORIGINAL APPLICATION NO. 761 OF 1994  
Cuttack, this the 5th day of October, 1999

CORAM:

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

.....  
Prasanta Kumar Rout, son of Jadumani Rout, Qr.C-T-14, Sector-IV,  
Rourkela-2

.....Applicant

Advocates for applicant - M/s U.C. Patnaik  
S. Pradhan  
D.R. Nanda

Vrs.

1. Union of India, represented through its  
Secretary, Department of Communication,  
New Delhi-110 001.
2. Chief Post Master General,  
Orissa Circle, At/PO-Bhubaneswar,  
District-Khurda.
3. Senior Superintendent of Post Offices,  
Sundergarh, At/PO/Town/Dist. Sundergarh

.....Respondents

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

ORDER

SOMNATH SOM, VICE-CHAIRMAN

Som

In this Application under Section 19 of  
Administrative Tribunals Act, 1985, the petitioner has  
prayed for a direction to the respondents to appoint the  
applicant as Postal Assistant/Sorting Assistant on  
preferential basis against outsider quota.

2. Facts of this case, according to the petitioner, are that from 7.6.1989 he is working as Extra-Departmental Packer-cum-Mail Carrier in Daily Market Sub-Post Office, Rourkela. On 23.3.1993 Chief Post Master General, Bhubaneswar (respondent no.2) published an advertisement in the SAMAJ inviting applications for recruitment to the posts of Postal Assistants in different Postal Divisions. In Sundargarh Division there were five posts for Unreserved Category, one for Scheduled Castes, two for Scheduled Tribes and one for Ex-servicemen - nine posts in total. Senior Superintendent of Post Offices, Sundargarh Division in his letter dated 20.10.1983 (Annexure-4) circulated the Circle Office's letter dated 3.8.1983 conveying the instructions of Director General of Posts in his letter dated 20.6.1983. These circulars are the guidelines which, according to the applicant, lay down that Extra-Departmental Agents who are Matriculate or have passed equivalent educational qualification and have put in one year service and within 35 years of age are also eligible for recruitment to the cadre of Postal/Sorting Assistants against outsiders quota of vacancies. The petitioner applied for the post of Postal/Sorting Assistant. But the respondents without selecting the applicant gave appointment to fresh outsiders. The petitioner has stated that he was the lone departmental candidate and was a Graduate in Commerce. He had filed several representations, but respondent no.3 in his letter dated 10.10.1994 at Annexure-6 has informed him that as the applicant had secured less marks he could not be selected. He has filed further representation but without any result and that is why he has come up in this petition with the prayers referred to earlier.

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3. Respondents in their counter have stated that Extra-Departmental Agents are to be considered against outsiders quota but there is no preference given to EDAs against outsiders quota and they have to compete with fresh candidates. It is further stated that in the circular at Annexure-4 the age limit for EDAs for the purpose of appearing in Postmen and Time Scale Clerks Examination has been reduced to 35 years from 42 years on the analogy of similar reduction of age limit for appearance in Group-D Examination. This circular does not provide that EDAs should be taken as a preferential category. The respondents have further stated that the applicant has secured less percentage of marks compared to the last recruited candidate Kedar Choudhury and the last person in the waiting list Babita Patnaik and therefore he could not be selected. On the above grounds, the respondents have opposed the prayer of the applicant.

4. When the matter was called for hearing the learned counsel for the petitioner was absent nor was any request made on his behalf seeking adjournment. As the matter had come up for hearing from the Waiting List, it was not possible to delay the hearing of the matter indefinitely. We have therefore heard Shri A.K. Bose, the learned Senior Standing Counsel for the respondents and have perused the records.

5. It has been submitted by the learned Senior Standing Counsel that in the advertisement at Annexure-3 it was specifically mentioned that the basic qualification for selection is Intermediate in Arts/Science/Commerce. Weightage however would be allowed by increasing the

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percentage of marks in the basic examination by 10 marks for candidates having Graduate and Post-Graduate qualification. In case the percentage of marks obtained in any higher examination is more than the percentage arrived at on the basis of bonus marks added to the marks in the basic examination, then the higher percentage of marks in the higher examination would be taken into account. The respondents have stated that the applicant has got 38.5% marks in I.Com. Examination and 41.63% in B.Com.Examination. As adding 10 marks to the marks secured by him in I.Com. Examination would be more than the marks secured by him in B.Com.Examination, his marks for the purpose of selection were taken to be  $38.5 + 10 = 48.5\%$ . But the last recruited candidate under General Category Kedar Choudhury had secured 61.85% in I.Sc.Examination and 55.45% marks in B.Sc.Examination. So his marks were taken to be 71.88% and the last person in the Waiting List Babita Patnaik had secured 48.55% marks in I.Sc., 61.85% in B.Sc. and 68.7% marks in M.Sc.Examination and therefore her marks were taken as 61.85%. The applicant's marks are much less than the marks secured by these two candidates and so the applicant was not selected. As this method of calculating the marks and the process of selection were laid down in the advertisement itself, the applicant was well aware of this. In the circular at Annexure-4 also there is no mention that Extra Departmental Agents should be preferred compared to the fresh candidates from open market. Therefore we hold that the applicant has not been able to make out a case for the relief asked by him.

6. In the result, the Application is held to be without any merit and is rejected. No costs.

(G.NARASIMHAM)  
MEMBER(JUDICIAL)

(SOMNATH SOM)  
VICE-CHAIRMAN

5.10.99

AN/PS