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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 806 OF 1994

Cuttack, this the 4th day of January, 1999


Shri Bidyadhar Sethi and another Applicants

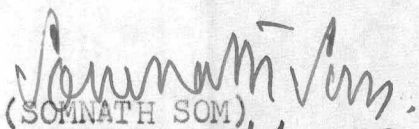
Vrs.

Union of India and others Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?


(A.K. MISRA)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN
4.1.99

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.806 OF 1994

Cuttack, this the 4th day of January, 1999

CORAM:

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

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1. Shri Bidyadhar Sethi, aged 34 years,
son of Gopal Chandra Sethi, Vill/PO-Andra,
Via-Dandisahi, Dist.Kendrapara.
2. Purnachandra Jena, aged 36 years,
son of Babaji Charan Jena,
Vill-Barahatta, P.O-Bamadevpur,
Dist.Jajpur

... Applicants

By the Advocates - M/s A.Deo & B.S.Tripathy

Vrs.

1. Union of India, represented by its
Secretary, Department of Posts,
Dak Bhavan, New Delhi.
2. Chief Postmaster General, Orissa Circle,
At/PO-Bhubaneswar, Dist.Khurda.
3. Superintendent of Post Offices,
Cuttack (N) Division, At/PO/Dist.Cuttack ... Respondents

By the Advocate - Mr.Ashok Misra,
Senior Panel Counsel.

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative
Tribunals Act, 1985, the two applicants have prayed for quashing

the order dated 14.9.1994 cancelling the Special Recruitment Examination in the Postman Cadre (Outsider ED) S.C/S.T. only held on 26.12.1993 in which the applicants were declared successful. There is also a prayer for a direction to respondent no.3 to issue necessary posting orders as per the select list at Annexure-3. Respondents have filed counter in this case.

2. The applicants' case is that applicant no.1 is working as E.D.D.A. in Andra B.O. from 1.5.1980 and applicant no.2 is working as E.D.M.C. in Uttangara Branch Post Office from 5.12.1978. The respondents issued a notice dated 13.10.1993 (Annexure-2) for Special Recruitment Drive for filling up backlog vacancies up to 1.4.1993 of S.C/S.T. candidates in Postman/Mailguard cadre. The admitted position is that in response to this notice, these two applicants appeared at the special recruitment examination and came out successful. The order declaring the two applicants as qualified in the special recruitment examination in the Postman Cadre (Outsider-ED) SC/ST candidates, dated 7.4.1994 is at Annexure-3. The applicants' case is that while after becoming successful they were waiting for getting posting order, respondent no.3 in the impugned order dated 14.9.1994 (Annexure-4) has cancelled the order dated 7.4.1994 declaring the two applicants qualified in the special recruitment examination for the Postman cadre. In the impugned order, the reason cited is that there is no vacancy in the Division and that the examination was held only for backlog vacancy.

3. Respondents in their counter have admitted that a special recruitment examination was held and in that examination, the two applicants were declared qualified. But the respondents

have submitted that there is no vacancy in the S.C. quota in the Division. Both the applicants belong to S.C. and therefore, the respondents have cancelled the examination. In view of the above, the respondents have opposed the prayer of the applicants.

4. We have heard the learned lawyer for the applicants and Shri Ashok Misra, the learned Senior Panel Counsel appearing on behalf of the respondents, and have also perused the records.

5. The notice calling for the applications for the examination is dated 7.10.1993 and has also been filed by the respondents along with their counter at Annexure-R/1. In this notice, the respondents have mentioned the following in a note after paragraph 6 of the notice. This is quoted below:

"Important:-Applications from all eligible SC/ST Group 'D' and EDAs should be called for. In respect of divisions, where there is no vacancy, applications from eligible candidates should also be collected and examination held. The cases of qualified candidates from such divisions will be considered in case of short fall arises in other divisions after the declaration of result in those divisions. In the application form for appearing in this special recruitment a suitable column should be prescribed enquiring as to whether the candidate is willing to work anywhere in the Circle if he qualifies in this examination. This will be done as per the combined merit list of all such surplus qualified candidates compiled at Circle level. Candidates from this merit list will be appointed to the unfilled vacancies strictly according to merit. Appointment from this merit list will be confined to the actual number of unfilled vacancies in other divisions and no waiting list will be maintained.

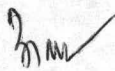
The above points should be made clear to the candidates intending to appear at this examination. In the Dns where there is no vacancy of backlog candidates who are only willing to serve in other Dns of the circle, should only apply and should only be permitted to appear if otherwise eligible."


From the above, it is clear that this notice envisages holding of examination even if there is no vacancy under SC/ST quota in the Division. It is further provided that in such cases, the qualified candidates would be considered for appointment in SC/ST backlog vacancies in other Divisions if a short-fall arises in those Divisions. It is also laid down that in the application form it should be specifically mentioned if the candidate is willing to work anywhere in the Circle if he qualifies in the examination. It is further provided, as quoted above, that in the Division where there is no vacancy of backlog, candidates those who are willing to serve in other Divisions of the Circle, should also apply and should only be permitted to appear if otherwise eligible.

6. From the above conditions mentioned in the notice dated 7.10.1993 it is clear that as there was no SC vacancy in Cuttack (N) Division, these applicants have been permitted to appear at the examination on their willingness to go to other Divisions if there is any short-fall there. Along with this notice dated 7.10.1993, Annexure-A has been enclosed in which the vacancies under SC/ST quota for departmental and outside candidates have been mentioned. It is seen that in the departmental quota for S.C. there are two vacancies, one at Balasore^{Division} and one at R.M.S. 'N' Division, and under the outside quota there is no vacancy for S.C. Applicants in paragraph 4(g) of their application have mentioned that they come under outsider quota. It also appears from the order dated 7.4.1994 (Annexure-3) declaring the results that this special recruitment examination for the Postman cadre relates to outsider quota. In the outsider quota there is no vacancy

in the entire Circle for S.C. candidates. As such, the respondents should not have called for applications and allowed the applicants to appear at the examination where no S.C. backlog vacancy is available in the outsider quota in any of the other Divisions. As vacancies are not there, it is not possible to direct the respondents to issue posting orders in favour of the applicants. As regards their prayer for quashing the order cancelling the result of the examination in which the two applicants have been declared qualified, this prayer therefore becomes infructuous because this examination is only for backlog vacancies of SC/ST quota and in the instant case there are no backlog vacancies.

7. In the result, therefore, the Application is found to be without any merit and the same is rejected but, under the circumstances, without any order as to costs.


(A.K. MISRA)
MEMBER(JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN
4.1.99