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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 824 of 1994

Cuttack this the 17th November, 1995

A. Das

...

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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

Nareshwar  
(N.SAHU)  
MEMBER (ADMINISTRATIVE)

*D.P.HIREMATH*  
(D.P.HIREMATH)  
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH  
CUTTACK

Original Application No. 824 of 1994

Cuttack this the 17th day of November, 1995

C O R A M:

THE HONOURABLE MR. JUSTICE D.P.HIREMATH, VICE-CHAIRMAN  
AND

THE HONOURABLE MR.N. SAHU, MEMBER (ADMINISTRATIVE)  
(PATNA BENCH)

Abhina Das, aged about 33 years  
Son of Bhimesen Das,  
Vill:Rahamba, P.O.Postal,  
P.S.Govindpur, Dist:Cuttack

... Applicant

By the Advocate: M/s.N.K.Acharya  
N.Panda, N.Pradhan  
B.M.Biswal

Versus

1. Union of India represented by the Chief Post Master General, Orissa, Bhubaneswar
2. Sub-Divisional Inspector (Postal)  
Cuttack Western Sub-Division,  
Cuttack
3. Lakeswar Khatua, S/o.Ganeswar  
Khatua, At:Mahaspur, P.O.Khalarda  
P.S.Sadar (Gopalpur) Dist:Cuttack

... Respondents

By the Advocate: Mr.Ashok Mishra,  
Sr.Standing Counsel (Central)

...

O R D E R

MR.D.P.HIREMATH, V.C.: The petitioner in this application seeks for a direction that Respondent No.2 shall reconsider him for selection to the post of E.D.D.A./M.C. and if at all the applicant is found to be suitable to get appointment

against such post referred to above at Khalarda, Respondent No.2 may be directed to give appointment to the applicant when the vacancy would arise under him giving priority over his previous service to the department.

his  
It is case that he is a Matriculate of the year 1982, and in July, 1988, he served as a Postman for 15 days and one day as Gr. Despature on daily wages basis under the Senior Post Master in Cuttack G.P.O., at Bauxibazar and in the month of August, 1988, he also served as a Postman for 25 days on daily wages basis in the said G.P.O. and in the month of September, 1988, he served 2 days only as a Postman in the said G.P.O. on daily wage basis. The A.P.M. (Accounts) of Cuttack G.P.O. by his certificate dated 6.9.1994 has certified of this service of the petitioner. Though he served for a short span of time referred to above at different times, he was not appointed or absorbed in any of the vacancies and remained ~~to be~~ unemployed and his name still appears on the registry of the Employment Exchange Office. When this application came to be filed, there was a post of E.D.D.A./M.C. fallen vacant at Khalarda Branch Office under Gopalpur Sub-Post Office and the Respondent No. 2 is the appointing authority. He invited from the Employment Exchange the names of some candidates for the selection to the post and alongwith others the name of the applicant was also sponsored by the

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District Employment Exchange Office, Cuttack. When the details were called for, he submitted the same to Respondent No. 2. In the selection that was made by Respondent No. 2, he was placed under third in the list whereas one Jaganath Das was placed under Sl. No. 1. who refused to join. The second in the list is one Lakhyeswar Khatua who is a fresh candidate having third division in the H.S.C. Examination like the applicant ~~from~~ <sup>and</sup> which police verifications were also sought. It ultimately transpires that the Respondent No. 3 was selected though a fresh candidate. The sole ground <sup>on</sup> which he gained over the petitioner was that he has secured more number of marks in the Matriculation Examination, i.e. nine marks more than the applicant. It is his grievance that while selecting Respondent No. 3, his experience in the Department has been ignored. This is how he has approached this Tribunal for the aforesaid relief.

2. In the counter it is stated by the Respondent No. 1 & 2 that Respondent 3, who has been selected has secured 271 marks out of 700 whereas the applicant has secured only 262. According to them, the Recruitment Rules do not provide for giving weightage to any candidate termed as casual labourer as he has not worked for minimum period of 240 days in any year in any capacity in the Department. That being so, the petitioner could not be selected. They also admit that the applicant approached them with a representation dated 20.9.1994 for considering his experience as weightage for 43 days. They express their helplessness as such a representation came to be filed only after the selection was over. It would

be suffice to note here that the respondents have made it clear that the Rules do not permit that weightage should be given to the petitioner for the reasons aforesaid. Rest of the contentions are not material for the disposal of this application.

3. The learned counsel for the applicant does not dispute that he had secured less number of marks than respondent No.3 when the selection was made. Though he made efforts to satisfy us with some provision to give preference to those who have served full or part-time in the Department as could be noticed from Rule 25(3) of the Service Rules relating to E.D.Staff, we are unable to find anything to support him in that provision as it relates to consideration for D group posts in the Department. It is also undisputed that he had not put in 240 days of work as a casual labourer. That being so, his service for 43 days may at the best be available for the appointing authority to favourably consider his case. It is stated during the course of arguments that a post of E.D.M.C. is vacant at Eranch Branch Post Office and that it is yet to be filled up. Considering the undisputed fact that the petitioner had put in some days' service in the Department, i.e. 43 days, we direct that the

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respondents shall take into consideration this circumstance which is in his favour in preference to others equally qualified while making selection to the post of E.D.M.C., Eranch and a few marks more obtained by a particular candidate should not negative his claim as he has already worked with devotion in the Department and gained some experiences in different posts. At any time this should get a mileage over others. With this observation we dispose of the Original Application. No order as to cost.

*Narasimha Sahu*  
(N.SAHU)  
MEMBER (ADMINISTRATIVE)

*D.P.Hir Emath*  
(D.P.HIR EMATH)  
VICE-CHAIRMAN

Sahu, CM