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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 839 OF 1994.
Cuttack, this the 21st day of November, 2000.

Prafulla Kumar Padhi.

....

Applicant.

Vrs.

Union of India & Others.

...

Respondents.

FOR INSTRUCTIONS

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

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
21.11.2000

G. Narasimnam
(G. NARASIMNAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 839 OF 1994.

Cuttack, this the 21st day of November, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAI RMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDL.).

Prafulla Kumar Padhi, Aged about 25 years,
Son of Padmanav Padhi, At/PO:Kabirpur,
Dist:Jajpur.

Applicant.

By legal practitioner: M/s. R.N.Naik, A. Deo, B.S. Tripathy,
P. Panda, Advocates.

Vrs.

1. Union of India represented by its Secretary
in the Department of Posts, Ministry of
Communication, Dak Bhawan, New Delhi.
2. Chief Postmaster General,
Orissa Circle,
Bhubaneswar, Dist:Khurda.
3. Superintendent of Post Offices,
Cuttack North Division, Cuttack.
4. Sub Divisional Inspector(postal)
Dharmasala Sub Division,
Dharmasala, Dist.Jajpur.
5. Shankarshan Padhi,
At/PO:Kabirpur, Dist.Jajpur.

: Respondents.

By legal practitioner: Mr.J.K.Nayak, Additional Standing Counsel.

(Central)

ORDER

MR. G. NARASIMHAM, MEMBER (JUDICIAL) :

Heard Mr. B. S. Tripathy, learned counsel for the Applicant and Mr. J. K. Nayak, learned Additional Standing Counsel appearing for the Departmental Respondents 1 to 4. Private Res. No. 5 though issued notice on 31-1-1995, neither entered appearance nor contested the case.

2. The District Employment Officer, Jajpur on request from the S.D.I.P. (Respondent No. 4) to fill-up the vacant post of E.D.D.A. at Kabirpur sponsored names of applicant and Shri Shankarshan Padhi, (Respondent No. 5) and three others. The qualification prescribed in the requisition which is under Annexure-R/1 is that the candidate must have passed 8th standard but preference will be given to matriculate candidates and no weightage could be given to higher qualification than Matriculation. Ultimately, Respondent No. 5 was selected for the post.

3. In this application for quashing of the selection of Respondent No. 5, the case of the applicant is that he is more meritorious than Respondent No. 5 inasmuch as he is a Matriculate whereas Respondent No. 5 has studied upto Class-9. Even in the counter the Departmental Respondents admitted that the applicant is more qualified than Respondent No. 5 from the educational point of view. However, they did not select him as one Sh. Nabin Sunder Padhi, who is a very close relation of the applicant was then working as ED Messenger in the same Kabirpur Sub Post Office in view of the instructions of the Director General of Posts letter No. 43/36/64-Pen, dated 17.10. 1966 (Annexure-R/3). We have carefully gone through this instruction under Annexure-R/3, which discourages appointment of

near relatives in the same office as ED Agent, as this is fraught with the risk of frauds etc. However, the Apex Court in the case of Baliram Prasad vrs. Union of India and others reported in AIR 1997 SC 637 struck down this instruction.

4. Hence, the only ground urged by the Departmental Respondents in not selecting the applicant can not be legally sustained. We, therefore, quash the selection and also his appointment, if any made, in the meanwhile and direct the Departmental Respondents to make selection afresh confining the selection amongst the five candidates under Annexure-R/2 following the legal position mentioned above within a period of sixty days from the date of receipt of a copy of this order.

5. In the result, with the observations and directions made above, the Original Application is allowed. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
21/11/2002

21.11.2002
(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.