

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 38 OF 1995

Cuttack, this the 15th day of March, 2001

Bibekananda Tripathy

.....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
(SOMNATH SOM)
VICE-CHAIRMAN

15.3.2001

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CORAM:

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

.....
Bibekananda Tripathy, aged about 23 years, son of Sabari Narayan Tripathy, resident of Kushmel, P.O-Kushmel, District-Bolangir....
Applicant

Advocates for applicant - M/s H.S.Mishra
S.S.Patra

Vrs.

1. Union of India, represented through its Secretary-cum-Director General, Posts, Dak Tara Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle, bhubaneswar, P.O-Bhubaneswar, District-Khurda.
3. Post Master General, Sambalpur, At/PO/Dist.Sambalpur.
4. Superintendent of Post Offices, Bolangir, At/PO/Dist.Bolangir.

..... **xRespondentsx**

5. Rabindra Kumar Singh, Extra Departmental Branch Post Master, Kushmel, P.O-Kushmel, District-Bolangir

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Respondents
Advocates for respondents - Mr.A.K.Bose
for R-1 to 4
&
M/s J.K.Rath
S.K.Das
R.N.Mishra
for R-5.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application, the petitioner has
prayed for quashing selection and appointment of
respondent no.5 as EDBPM, Kushmel B.O. and for a direction
to Superintendent of Post Offices, Bolangir Division
(respondent no.4) to consider the candidates sponsored by
the District Employment Officer, Bolangir, against the
second letter of requisition. The departmental
respondents have filed counter. Though respondent no.5

has appeared, no counter has been filed on his behalf. For the purpose of considering this petition, it is not necessary to go into too many facts of this case. It is only necessary to note that a vacancy arose in the post of EDBPM, Kusmel B.O. on superannuation of one Sabari Narayan Tripathy, the incumbent EDBPM and father of the present petitioner. On requisition, the District Employment Officer, Balangir, sponsored the names of applicant and respondent no.5. As Director General, Posts' circular provides that at least three candidates should be in the zone of consideration, public notice was issued and at the same time the two persons, i.e., the applicant and respondent no.5 sponsored by the Employment Exchange were also asked to submit their detailed application with necessary documentation. In the meantime, it was noticed that there has been an error in the date of birth of the incumbent EDBPM, the father of the applicant. It is stated that his actual date of birth was 12.12.1929 and this was wrongly taken to be 12.2.1929. Therefore, the date of retirement of the incumbent EDBPM was changed from 11.2.1994 to 11.12.1994. Accordingly, the open notification was cancelled and the applicant and respondent no.5 were intimated that selection for the post of EDBPM, Kusmel B.O. had been postponed to a later date. In response to the notice issued to the applicant and respondent no.5 whose names had been sponsored by the Employment Exchange, to submit their detailed applications with necessary documentation, neither respondent no.5 nor the applicant submitted their applications and one S.B. Singh Deo submitted his application which was received on 17.1.1994 before the due date, i.e., 19.1.1994.

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Keeping in view the date of retirement of the incumbent EDPM on 11.12.1994, the District Employment Officer was once again requested on 7.9.1994 to sponsor candidates. Four candidates including the applicant were sponsored and they were asked to submit detailed application in response to which only the applicant and one Niraja Tripathy submitted their applications before the due date. Another sponsored candidate Nandi Kishore Tripathy submitted his application by the due date. Besides these three, respondent no.5 and S.B.Singh Deo had also applied. Thereafter, all these candidates were considered and respondent no.5 was selected.

2. When the matter was called for hearing, on behalf of the learned counsel for the petitioner an adjournment was asked for. As such request for adjournment was not made at the mention time and was made only when the matter was called for hearing, the request for adjournment was rejected and we have heard Shri A.K.Bose, the learned Senior Standing Counsel for the departmental respondents and have perused the records. The learned counsel for respondent no.5 did not appear nor was any request made on his behalf seeking adjournment.

3. The sole ground on which the applicant has challenged the selection of respondent no.5 is that in response to the second requisition the Employment Exchange did not sponsor the name of respondent no.5. This is factually correct. But at the same time it has to be noted that the name of respondent no.5 was sponsored by the same District Employment Officer earlier along with the name of the applicant. Both of them were informed that the selection has been postponed. Thus, their candidature was not cancelled. It is also surprising

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how the District Employment Officer having sponsored the names of the applicant and respondent no.5 in response to the first requisition omitted to sponsor the name of respondent no.5 in response to the second requisition. But as the name of respondent no.5 was sponsored by the Employment Exchange earlier and as respondent no.5 and the applicant were informed that the selection has been postponed, it cannot be said that the sponsoring of respondent no.5 by the Employment Exchange has lost all its force. In view of this, it is held that the departmental authorities have rightly considered the case of respondent no.5. From the pleadings it further appears that respondent no.5 got the highest marks in HSC Examination amongst all the candidates. He got 292 marks whereas the applicant got only 241 marks as is seen from the marksheets of the applicant and respondent no.5 enclosed at Annexures 14 and 13 respectively. Instructions of Director General, Posts, provide that amongst the eligible candidates who has got highest percentage of marks in HSC Examination is to be considered most meritorious and in view of this, it is held that respondent no.5 has been rightly selected for the post.

4. In consideration of all the above, the Original Application is held to be without any merit and is rejected. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

154 March, 2001/AN/PS

Somnath Som,
(SOMNATH SOM)
15.3.2001,
VICE-CHAIRMAN