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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 475 OF 1995.
Cuttack this the day of June, 1999.

Bhagyadhar Behera. Applicant.
- Versus -
Union of India & 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*.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
30.6.99

30.6.99
(G. NAKASIMHAM)
MEMBER (JUDICIAL).

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 475 OF 1995.
Cuttack this the day of June, 1999.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
&
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

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Bhagyadhar Behera,
S/o .Kulamani Behera,
At-Nanda Kishorepur,
PO .Kumunda Jaypur,
Dist.Jajpur.

...

Applicant.

By legal Practitioner: M/s Pradipta Mohanty, D.N.Mohapatra,
Advocates.

-Versus-

1. Union of India represented by the
Director General (Post),
Dak Bhawan, Ashoka Road, New Delhi,
PIN-110 001.
2. Superintendent of Post Offices,
Cuttack North Division,
At/Po/Dist.Cuttack.
3. Sub Divisional Inspector (Postal),
Salepur, Dist.Cuttack.
4. Suresh Rana,
S/o .Babaji Rana,
E.D.D.A.-Cum-Packer, Kumunda Jaypur,
ED Sub Post Office, Dist.Cuttack. ... Respondents.

By legal practitioner: Mr.Ashok Mishra, Senior Panel Counsel
(Central).

O R D E R

MR. G. NARASIMHAM, MEMBER (JUDICIAL):

Applicant, Bhagyadhar Behera, a candidate for
the selection to the post of EDDA Cum Packer of Kumunda
Jayapur, in this Original Application seeks to quash the
selection and appointment of Respondent No.4, Shri Suresh
Rana to the post and for direction to the Departmental
Respondents 2 and 3 to make fresh selection among the

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candidates mainly on the ground that he is a Scheduled Caste candidate and as per the advertisement preference will be given to the Scheduled Caste candidates and that he had secured more marks in the HSC Examination than Respondent No.4 who is not a Scheduled Caste candidate.

2. Respondent No.4, though duly noticed, had not entered appearance or contested the case. Respondents 1 to 3 representing the Department state in the counter that the District Employment Exchange, Cuttack sponsored the names of 15 candidates including applicant and Respondent No.4. All the candidates were addressed with prescribed application forms by Registered post to apply for the post in question, along with the required certificates/documents positively by 16-5-1995. 10(ten) candidates including applicant and Respondent No.4 had applied for the said post by 16-5-1995. Out of these ten candidates three candidates, namely applicant, Respondent No.4 and one Kapilendra Jena were matriculate. Respondent No.4 secured 38.28% marks in HSC Examn. i.e. 268 marks out of 700 which is more than 37.30% i.e. 261 marks out of 700 secured by applicant in HSC examination. The remaining candidate Kapilendra Jena, secured 36.62% i.e. 293 marks out of 800. There was no mention in the advertisement that preference will be given to SC candidate. On the other hand, out of the total 136 ED Agents of the Division, 42 are SC candidates i.e. already there are 22 surplus SC candidates. Hence question of giving preference to SC candidates, does not arise.

No rejoinder has been filed.

3. We have heard Mr. P. Mohanty, learned counsel for applicant and Mr. Ashok Mishra, learned Senior Panel counsel appearing for the Departmental Respondents 1 to 3. Also perused

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the records.

4. There is no denial to the counter of the Department that more number of SC ED Agents than the required percentage are serving in the Postal Division and that question of giving preference to the SC candidate would not arise. Learned counsel for applicant, however, contended that applicant secured 269 marks out of 700 in HSC examination (Annexure-4) whereas Res.No.4 as mentioned in the check list (Annexure-R/3) only secured 268 marks out of 700. We have carefully perused the Annexure-4, mark sheet of applicant. Out of seven subjects, including optional carrying full mark of 700, he had secured 261 marks besides this he secured 38 marks out of 100 in extra-optional subject and out of that 38 marks only eight marks were added to the total making it 269. Question for consideration ^{is} whether the extra marks added for extra optional subject can be taken into consideration in assessing the merit of the respective candidates in HSC Examination. Learned counsel for applicant could not place before us any authority in support of this contention that these marks awarded in extra optional subject has to be taken into account. On the other hand, ^{from} ~~for~~ the side of Department, Circular dated 22.5.1996 of the A.D.G. (ED & TRG) has been placed before us wherein it has been clarified that marks secured in the additional subject/second language should be ignored and the interse merit should be determined on the basis of marks secured in the compulsory/elective subjects taken in the matriculation examination. This circular issued by the Department clinches the issue. Department had rightly not taken into account the extra eight marks secured by applicant in the extra optional subject. In the absence of extra additional marks in extra optional subject, the total marks of applicant

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will be 261 out of 700 which, less than 268 out of 700 marks secured by Respondent No.4.

5. In the result, we do not see any merit in this Original Application which is rejected. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 30.6.99

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.