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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 537 OF 1995

Cuttack, this the 29th day of August, 2002

Sri Sanjaya Sabara Applicant.

Vrs.

Union of India and 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? *no*

for information
29/08/2002
(M.R.MOHANTY)
MEMBER(JUDICIAL)

V.SRIKANTAN
(V.SRIKANTAN)
MEMBER(ADMN.)

For information
28/8/02

Am / m (J)
I agree
28/8

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(b)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 537 OF 1995

Cuttack, this the 29th day of August, 2002

CORAM:

**HON'BLE SHRI V.SRIKANTAN, MEMBER(ADMN.)
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDL.)**

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Sanjaya Sabara, aged about 28 years, son of Sri Taisam Sabara, At/PO Tumulo, Via-Gumama, Dist. Gajapati Applicant.

Advocates for the applicant – M/s S.K.Mohanty, S.P.Mohanty, P.K.Lenka
Vrs

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. S.D.I(P), Parlakhemundi (West) Sub Division, Parlakhemundi.
3. Senior Superintendent of Post Offices, Berhampur (Gm)Division, Berhampur.
4. Post Master General, Berhampur Region, Berhampur.
5. Asst. Director, Employment Exchange, Berhampur Region, Berhampur, Dist. Ganjam.
6. Sri Aranchu Karzi, At/PO Tumulo, Dist. Gajapati
7. District Employment Officer, Parlakhemundi, Dist. Gajapati.
..... Respondents.

Advocates for respondents – Mr.A.K.Bose, Sr.CGSC for Respondent nos. 1 to 4;

Mr.K.Ch.Mohanty, Govt. Advocate for Respondent nos.7.

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ORDER

V.SRIKANTAN, MEMBER(ADMN.)

1. Heard Shri S.P.Mohanty, learned counsel appearing for the applicant, Shri A.K.Bose, learned Senior Standing Counsel, appearing for respondent nos.1 to 4, and Shri K.C.Mohanty,

learned Government Advocate, appearing for respondent nos. 5 and 7, and perused the materials on record.

2. Respondent no.2 had sent a requisition on 29.10.1994 to the local Employment Exchange, Parlakhemundi, for nomination of suitable candidates for the post of EDDA/MC, Tumulo Branch Post Office, within thirty days from the date of sending the requisition. In this requisition, it was stated that the minimum qualification for the post in question is VIIth standard, but preference would be given to Matriculates. In response, the Employment Exchange, sponsored 17 candidates, who were all non-matriculates. The applicant, who is a matriculate and was registered with the Employment Exchange in the year 1993, being aggrieved by the fact that his name was not sponsored by the Employment Exchange, even though he was a matriculate, and though subsequently, he had submitted an application directly to the official respondents, his candidature was not considered and selection was made from among the seventeen candidates sponsored by the Employment Exchange, who were all non-matriculates, has filed this Original Application for quashing of the appointment given to Sri Aranchu Karzi (respondent no.6) and directing the official respondents to hold fresh selection for the aforesaid post.

8 3. Respondent no.7, the local Employment Exchange, has filed reply, wherein they have stated that since the requisition stated that VIIIth standard is the essential qualification and the desirable qualification is Matriculation on preferential basis, they had only considered and sent the seventeen names of non-matriculates, and not having sponsored the name of the applicant, who was a matriculate, therefore, did not mean that his case was ignored.

4. The official respondents, in their reply, have stated that they had considered only the names sponsored by the Employment Exchange and they were barred from considering the name of the applicant as his name had not been sponsored by the Employment Exchange in terms of the prescribed instructions for recruitment of E.D.As. They have also stated that qualification, as mentioned in the requisition sent to the Employment Exchange, was VIIIth standard, Matriculates to be preferred and hence there is no bar for the Employment Exchange to sponsor the name of the applicant having Matriculation qualification, and they accordingly proceeded to finalise the selection on the basis of the names received from Employment Exchange and in terms of the executive instructions, as sufficient number of candidates had been sponsored by the Employment Exchange, there was no

requirement to issue an open notification. This being so, the application of the applicant received directly could not be taken into consideration ^{and} the selection was finalised and respondent no. 6, Aranchu Karzi was selected

5. The only point to be decided by this Tribunal in this case is, whether the official respondents were right in not considering the application submitted by the applicant directly to the official respondents for the post, along with those sponsored by the Employment Exchange. During arguments, the learned counsel for the applicant cited the judgment passed by the Hon'ble Supreme Court in the case of *The Excise Superintendent Malkapatnam, Krishna District, Andhra Pradesh v. K.B.N. Visweshwara Rao and others, in Civil Appeal No. 11646-11724 of 1996, decided on 22.10.1996 and reported in 1997(1) S.C.S.L.J.3.* In that decision, the Apex Court held that in addition to the names to be obtained from the Employment Exchange, the appropriate Department should call for names by publication in the newspapers having wider circulation and also display on their office Notice Board, etc., and then consider the cases of all the candidates who had applied, and if such procedure was adopted, fairplay would be subserved and equality of opportunity in the matter of employment would be available to all eligible candidates. In

this case, the requisition to the Employment Exchange was made on 29.10.1994 and the selection thereafter was limited to the names sponsored by the Employment Exchange. The decision cited by the learned counsel for the applicant is dated 22.10.1996 and hence is of much later date. The relevant case law, which held the field prior to this judgment of the Supreme Court is, *Union of India and others v. N.Hargopal and others*, (1987) 3 SCC 308. In that judgment, the Hon'ble Supreme Court held that in the absence of better method of recruitment, any restriction that employment in Government Departments should be through the medium of employment exchanges does not offend Articles 14 and 16. In view of this decision, which held the field on the day the requisition was made to the Employment Exchange, the action of the official respondents in limiting the selection to only those names sponsored by the Employment Exchange cannot be faulted.

6. For the above reasons, we do not find any merit in this Original Application, which is accordingly dismissed. No costs.

M. Mohanty
29/08/02
(M.R.MOHANTY)
MEMBER(JUDICIAL)

V. Srikantan
(V.SRIKANTAN)
MEMBER(ADMN.)

AN/PS