

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.619 OF 1995
Cuttack this the 6th day of September/2002

Babu Sethi

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Applicant(s)

- VERSUS -

Union of India & Others ...

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

(M. R. MOHANTY)
MEMBER (JUDICIAL)

(V. SRIKANTAN)
MEMBER (ADMINISTRATIVE)

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CORAM:

THE HON'BLE MR.V. SRIKANTAN, MEMBER(ADMINISTRATIVE)
AND

THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)

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Sri Babu Sethi (E.D.Messenger) S/o. Sri Hadi Sethi
At/PO-Patrapur, District-Ganjam (Orissa)

...

Applicant

By the Advocates

Mr.P.K.Padhi

-VERSUS-

1. Union of India through its Secretary, Ministry of Communication, Dak Bhawan, New Delhi-110 001
2. Chief Post Master General (Orissa Circle) At/PO-Bhubaneswar-751 001
3. Postmaster General, Berhampur Region, At/PO-Berhampur, Dist-Ganjam (Orissa)
4. Senior Superintendent of Post Offices, At/PO-Berhampur, Dist-Ganjam (O)

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Respondents

By the Advocates

Mr.A.K.Bose, Sr.
Standing Counsel
(Central)

ORDER

MR.V. SRIKANTAN, MEMBER(JUDICIAL): The applicant, who is an E.D.Messenger, had appeared at the Departmental Examination for the post of Postman/Mail Guard in the year 1991 and secured pass marks, but was not appointed as Postman. The applicant, had, thereafter applied for taking part in the Departmental Examination for the post of Postman/Mail Guard, which was scheduled to be held on 20.12.1992. But the said examination was cancelled. For the examination which was scheduled to be held on 20.12.1992, one S.C. vacancy had been indicated vide

letter dated 14.12.1992. The applicant had sought for being appointed against the said S.C. vacancy meant for 1992 Examination on the ground that he had already passed the examination in 1991 and the examination which was to be held in 1992 was cancelled. His representation dated 10.4.1993 to the above effect was not considered. Subsequently the Respondents issued a notification calling for applications from amongst SC/ST, Departmental as well as outsider (E.D.Quota) for the post of Postman/Mail Guard and the examination was scheduled to be held on 26.12.1993 and that the applicant had participated in that examination. Respondent No.2 declared the result of this examination on 26.7.1994 (Annexure-A/4) wherein there were six S.C. candidates out of seven and one S.C. candidate belonging to departmental quota category. The applicant had applied for the mark list, but the same was not supplied and subsequently, on the basis of an order passed by this Tribunal in O.A. No.317/95, the mark-list of the applicant in the above examination held on 26.12.1993 was furnished to the applicant and the applicant had secured 90 $\frac{1}{2}$ marks (Annexure-A/6). The applicant thereafter represented to Respondent No.2 vide letter dated 21.8.1995 for considering his case and give him appointment as Postman in the S.C. quota under Orissa Circle, but no orders were passed. Aggrieved by the fact that he has not been given appointment to the post of Postman anywhere in the Orissa Circle, the applicant has filed this Original Application.

2. Heard Shri P.K.Padhi, Advocate for the Applicant and Shri A.K.Bose, Senior Standing Counsel for the Respondents.

3. The contention of the applicant is that since he had passed the examination for the post of Postman/Mail Guard in 1991, but could not be accommodated, and that there was one S.C. vacancy for the examination to be conducted in 1992, but it was cancelled, that one S.T. vacancy of 1992 should have been to the applicant. It is the further contention of the applicant that he had secured the highest marks amongst the outsider S.C. candidates in 1993 examination but no one has been posted against S.C. outsider quota and finally, that there are vacancies in other Divisions in Orissa Circle and the applicant should have been considered for being appointed against one of these vacancies in the other Division.

4. The Respondents, while not denying the fact that the applicant had passed the examination of Postman/Mail Guard in 1991, have stated that the applicant could not be promoted as there were other candidates who had secured more marks than him and that the applicant could not be appointed against the S.C. vacancy of 1992, as Rules did not provide for such future appointment and that his representation was rightly rejected. As regards the examination held on 26.12.1993, the Respondents have pointed out that this was a Special Recruitment Examination conducted to fill up backlog vacancies in respect of SC/ST candidates and the backlog upto 1.4.1993 was earmarked for Berhampur Division for SC/ST, (Departmental Quota) - Nil, outsider quota - SC - Nil and ST-2 and that unfilled SC vacancy for the year 1992 did not come under the category of backlog vacancy of 1993 and the same had been carried forward and subsequently filled in the year 1995.

5. It is an admitted fact that the applicant had passed the examination for the post of Postman/Mail Guard held in 1991, but could not be appointed as there were other candidates belonging to SC community, who had secured the higher marks than the applicant. It is also admitted that the SC vacancies for the year 1992 could not be filled up as the examination was cancelled. However, the claim of the applicant that having passed the examination in the year 1991, he should have been adjusted against the SC vacancy of 1992 is not tenable as the Rules do not provide for such adjustment against the future vacancy. As regards the Special Recruitment Examination conducted on 26.12.1993, it is seen from Annexure-A/1 attached to the notification that this examination was held for the six Divisions of the Orissa Circle in order to fill up the backlog vacancies. In this statement, it is seen that so far outsider quota is concerned, SC vacancy is Nil, and for ST it is 2. However, for the whole Circle, the SC quota is null and the ST quota is six. This being so, the applicant could not in any case have been accommodated anywhere in the Orissa Circle, even if he had passed the examination. It is also seen from the appointment made on the basis of the above examination vide letter dated 26.7.1994 that five ST candidates who had passed the examination have been appointed against the outsider vacancies and that no SC candidate has been appointed against the outsider vacancy as no vacancy existed at all in the SC quota. It is also clear from Annexure-A/4 dated 7.10.1993 that the SC vacancy of the year 1992, (referred to by the applicant) was not part of backlog vacancy, as the backlog vacancy for SC has been shown as Nil. Accordingly, the stand of the

Respondents that 1992 vacancy is not part of backlog vacancy and the was carried forward and filled up in 1995 has to be held to be in order.

6. Accordingly the applicant was not entitled to be promoted either to the post Postman against the SC vacancy of 1992 or on the basis of the results of the examination which was held in terms of notification dated 7.10.1993, for filling up the backlog vacancies upto 1.4.1993 in SC/ST cadre.

For the above reasons, we do not see any merit in this application which is accordingly dismissed, leaving the parties to bear their own costs.

Yours
06/09/2002
(M.R.MOMANTY)

MEMBER (JUDICIAL)

V. Srikantan

(V. SRIKANTAN)
MEMBER (ADMINISTRATIVE)

Bjy/