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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 649 OF 1995

Cuttack the 5 5th day of February, 1996

JURA NAIK

....

APPLICANT

VERSUS


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 or not? No.

  
( H. RAJENDRA PRASAD )  
MEMBER (ADMINISTRATIVE)

05 FEB 96.

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 649 OF 1995

Cuttack this the 5th day of February, 1995.

CORAM:

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

Sri Jura Naik, S/o. Late Basini Naik,  
At/Po. Badapur, Via-Chikiti,  
Dist. Ganjam, Orissa.

... Applicant

By the Applicant ... Mr. P.K. Padhi, Advocate

-Versus-

- 1) Union of India, represented through its Secretary, Ministry of Communication, Dak Bhawan, New Delhi-110 001.
- 2) Chief Postmaster General Orissa Circle, At/Po. Bhubaneswar, Dist-Khurda-753 001.
- 3) Sr. Superintendent of Post Offices, Berhampur Division (Ganjam), At/Po. Berhampur, Dist. Ganjam.
- 4) Sub-Divisional Inspector (Postal), Paralakhemundi East Sub Division, At/Po-Paralakhemundi, Dist-Gajapati.
5. Debaraj Pandit, (Extra Departmental Delivery Agent), At/Po. Ch. Badapur, Via-Chikiti, Dist-Ganjam(O).

... Respondents

By the Respondents 1 to 4 : Mr. Ashok Mishra, Senior Standing Counsel ( Central )

By the Respondent No. 4 : M/s. Akhil Mohapatra,  
G.C. Patnaik, R.C. Sahoo,  
B. Nayak, Advocates.

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ORDER


H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE):

Shri Jura Naik, the applicant, was a candidate for the Post of Extra Departmental Delivery Agent of Badapur



Extra Departmental Branch Post Office in Paralakhemundi (East) Sub-Division under Berhampur Postal Division. He applied for the Post well within time fixed for the purpose and was selected for the said post by S. D. I. P., on his being judged the most suitable candidate. The said selection was made by the S.D.I.P , on 26th June, 1994.

2. It is seen from the Departmental file produced before me that the Respondent No.5 also applied for a transfer from Patrapur Sub Post Office to this (Badapur) Branch Post Office on 17th May, 1994 and the same was sent by him by Registered Post on 18th May, 1995. This representation was forwarded by the Senior Superintendent of Post Offices ( to whom it was directly addressed ) to S.D.I.P. and the same was received by the S.D.I.P. on 16. 6. 1994. It is also seen that before the applicant had been selected for the post on 26th June, 1995, the Respondent No.5 <sup>had</sup> made a similar representation to the S.D.I.P. However, the S.D.I.P. did not favourably consider the request made by the Respondent No.5 for a transfer to this Branch Post Office because he had a consistently bad record of service involving frequent unauthorised absences and alleged pilferage of canvas bags from the B.O. The

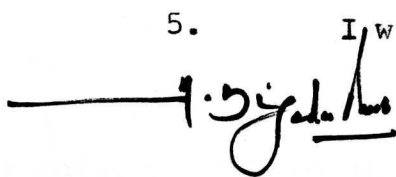


selection of applicant, coming under these circumstances, was after examining the cases of all candidates including that of Respondent No.5.

3. For some reason which is not immediately apparent, the Senior Superintendent of Post Offices decided to Review the selection and appointment of the applicant on 25th of August, 1995, and decided that Respondent No.5 was a better candidate inasmuch as he has a higher qualification (11th failed). The Review Committee appears to have overlooked the fact that the representation of Respondent No.5 was received not by the appointing authority but by a superior authority, and that too after the last date for submitting applications for the post was already over. The Committee also seems to have ignored the adverse report submitted by the SDIP against Respondent No.5. I do not find any valid or acceptable basis for the conclusion arrived at by the Review Committee. The same cannot be sustained.

4. The applicant belongs to S.C. community and it was stated by the SDIP ( who was present in court today) that the percentage of S.C. employees in his Sub division is very low, and that, as per the instructions of the Department, if a SC candidate is equally meritorious among the eligible candidates, preference should be given to him. I have no reason to doubt the statement.

5. I was given to understand that the vacancy created



on account of the transfer of Shri Pandit, Respondent No.5 at Patrapur S.O. has been provisionally filled up on ad-hoc basis and the same is also subject to the outcome of this Original Application.

6. It is, therefore, held that the transfer of Shri Pandit, Respondent No.5, from Patrapur to Badapur E.D.B.O. was uncalled for and incorrect because (a) the request was <sup>by the appointing authority</sup> received after the last date for submission of application from eligible candidates was over, (b) the representation was purposely made to an authority other than the appointing authority, (c) the appointing authority did not consider his request suitable of acceptance for apparently valid reasons, and (d) the Review Committee overrode the views of the appointing authority without any enquiry as regards the allegations against Respondent No.5.

7. It is directed, therefore, that Respondent No.5 shall be reposted to Patrapur Sub Office where he was working earlier. The applicant should be given a proper appointment within 15 (fifteen) days from today as he was selected for the post by a proper process of selection.

8. Thus, the Original Application is disposed of. The connected Miscellaneous Application is also disposed

— 1.24.11 —

of since the documents called for have already been  
produced and scrutinised in the Court.

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

05 FEB 96

KN Mohanty.