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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 754 OF 1995  
Cuttack this the 24<sup>th</sup> day of December, 1999

Susanta Kumar Nayak

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 ?

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
24.12.99

24.12.99  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 754 OF 1995  
Cuttack this the 24<sup>th</sup> day of December, 1999

**CORAM:**

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

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**Susanta Kumar Nayak**  
aged about 21 years  
Son of Laxmidhar Naik,  
residing at Village and PO: Hundapalaspal,  
District : Keonjhar

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Applicant

By the Advocates : M/s.R.N.Naik  
B.S.Tripathy  
K.N.Mishra

.Versus.

1. Union of India represented by its  
Secretary, Department of Post  
Dak Bhavan, New Delhi
2. Chief Post Master General  
Orissa Circle, Bhubaneswar  
District : Khurda
3. Superintendent of Post Offices  
Keonjhar Division, Keonjhar
4. Smt.Kumudini Barik  
Extra Departmental Branch Post Master  
Hundapalaspal Branch Post Office  
At/Po: Hundapalaspal, Dist: Keonjhar

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Respondents

By the Advocates : Mr.A.K.Bose  
Sr.Standing Counsel  
(Central)

...

ORDER

MR.G.NARASTHAM, MEMBER(JUDICIAL): The post of Extra Departmental Branch Post Master, Hundapalaspal Branch Office in account with Harischandrapur S.O. became vacant with effect from 1.7.1994. In response to notification dated 22.6.1995(Annxure-R/3) five candidates including the applicant and Res.<sup>4</sup> applied for the post. Ultimately Res.<sup>5</sup> was selected and appointed.

In this application challenging the selection and appointment of Res.<sup>4</sup>, <sup>applicant</sup> ~~applied~~ pleads that he being a Scheduled Caste candidate and having passed Intermediate examination and having more income than Res.<sup>4</sup> should have been selected to that post in preference to Res.<sup>4</sup>.

2. Respondent No.<sup>4</sup> though duly noticed had not entered appearance.

3. The departmental respondents represented through Res. 1 to 3 filed their counter praying for dismissal of the Original Application. Their case is that in H.S.C.examination, while the applicant secured 34.8% of marks, Res.<sup>4</sup> secured 45.6% of marks. As per the notification there being no short fall of percentage of S.T. community as E.D.Agents in that Division, no preference for selection of SC/ST community was indicated. Hence simply on the ground that the applicant is a candidate belonging to S.T. community he cannot claim preference for selection to the post. Moreover, as per the income certificate filed by the applicant, applicant has no land in his name. His father is having only income of Rs.5000/- from agricultural land and Rs.9240/- from salaries. As per the recruitment rules in fact only income from agricultural land is taken into consideration. On the other hand Res.<sup>4</sup> is having only

income of Rs.12,000/- from agricultural lands (Annexure-R/7). Besides he is having income independently in his own name. As per D.G. circular dated 6.12.1993 (Annexure-R/8) candidate for the post of F.D.B.P.M. should have adequate means of livelihood from the landed property or movable assets. The applicant admittedly has no lands in his own name. Taking all these factors into consideration the candidature of the applicant was rejected.

Applicant has not filed any rejoinder to the counter.

4. We have heard Shri B.S.Tripathy, learned counsel for the applicant and Shri A.K.Bose, learned Senior Standing Counsel appearing for the respondents. Also perused the records.

Recruitment rules for selection to the post of F.D.B.P.M. are clear that no weightage will be given to any educational qualification higher than the H.S.C. Percentage of marks secured in the H.S.C. examination is the sole criterion for selection to the post in question. Another criterion is that the selected candidate must have adequate means of livelihood. Admittedly the applicant secured less percentage of marks in the H.S.C. examination than Res.4. The applicant has no landed property standing in his name. Property standing in the name of the father may not necessarily be the caparcenary property so that the applicant as a son having interest therein. Even otherwise, the annual income being Rs.5000/- is comparatively less than the annual income of Res.4 from agricultural land as per the facts averred in the counter by the respondents not refuted by the applicant through any rejoinder.

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In the notification under Annexure-R/3 dated 22.6.1995 there is no mention that preference would be given to the candidates belonging to reserved community. In fact as averred in the counter, there was no short fall in the percentage of appointments of S.T. community as E.D. Agents. Hence the claim of the applicant that he has got a preferential right for selection cannot stand.

In the result we do not see any merit in this application which is accordingly dismissed, but no order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
24.12.99

B.K.SAHOO

24.12.99  
(G.NARASIMHAM)  
MEMBER(JUDICIAL)