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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 756 OF 1995.
Cuttack, this the 6th day of September, 2002.

CHITTARANJAN DAS. APPLICANT.

VRS.

UNION OF INDIA & ORS. RESPONDENTS.

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(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

Manoranjan Mohanty
06/09/2002
(MANORANJAN MOHANTY)
MEMBER(JUDICIAL)

V. Srikantan
(V. SRIKANTAN)
MEMBER(ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 756 OF 1995.
Cuttack, this the 6th day of September, 2002.

C O R A M:

THE HONOURABLE SHRI V. SRIKANTAN, MEMBER (ADMINISTRATIVE).

A N D

THE HONOURABLE SHRI MANORANJAN MOHANTY, MEMBER (JUDICIAL).

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CHITTARANJAN DAS,
Aged about 26 years,
S/O. Shri Dambarudhar Das,
Village: Bisrampur, PO: Agria,
Via: Betanati, Dist: Mayurbhanja.

.... APPLICANT.

By legal practitioner: M/s. K. K. Sahoo, B. Das Mohapatra,

- VERSUS -

1. Union of India represented through its
Secretary, Ministry of Communication,
Department of Posts, Dak Tar Bhawan,
New Delhi-1.

2. Chief Postmaster General, Orissa Circle,
Bhubaneswar.

3. Superintendent of Post Offices,
Mayurbhanja Division, Baripada.

4. Sub-Divisional Inspector (posts),
Baripada Mayurbhanja (Baripada East
Sub-Division), Baripada.

RESPONDENTS.

By legal practitioner: Mr. A. K. Bose,
Senior Standing Counsel (Central).

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4

O R D E R

MR. V. SRIKANTAN, MEMBER(ADMINISTRATIVE) :-

A notification was issued by the Respondents to the Employment Exchange, Baripada to sponsor names of candidates for selection to the post of Extra Departmental Delivery Agent (in short 'EDDA'), Agria Branch post Office and the Employment Exchange, Baripada sponsored as many as 32 candidates and all these candidates were directed to apply for the post fixing the last date of receipt of application from the candidates as 20.10.1995. The name of the Applicant was not sponsored by the Employment Exchange but he applied for the post and the same was received by the Respondent No.4 on 20-10-1995. As the name of the Applicant was not sponsored by the Employment Exchange, his name was not to be considered. However, as per the directions of this Tribunal in O.A. No.635 of 1995, the name of the Applicant was also taken into consideration along with those sponsored candidates from the Employment Exchange. Out of 32 sponsored candidates, only 14 candidates, who had applied for the post and the case of the Applicant were taken into consideration for the post in question. Amongst these fifteen candidates, two were matriculates and rest of the candidates were non-matric. Ultimately, one Shri Chandaneswar Patra, who was one of the sponsored candidates from the Employment Exchange, Baripada and belongs to SC community and was a plucked matric, was

selected for the post. Aggrieved by the said selection of Shri Patra, the Applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 with a prayer to direct the Respondents (more particularly Respondent No. 4) to appoint the Applicant in the post of E.D.D.A., Agria Branch Post Office, taking into consideration his past experience.

2. Heard learned Counsel for the Applicant and Mr. A.K. Bose, learned Senior Standing Counsel for the Union of India appearing for the Respondents and perused the records.

3. It is the contention of the Applicant that he had worked on substitute basis in the post of Extra Departmental Delivery Agent, Agria Branch post office and his performance had been upto the satisfaction and, accordingly, when the vacancy arose, he should have been appointed considering his educational qualification and past experience; that the selection of the person, who is a non-matriculate, has been made with a view to favour him and hence his selection, is illegal, arbitrary and violative of Art. 14 and 16 of the Constitution of India.

4. The Respondents in their reply have taken the stand that past experience is not to be taken into consideration; as no such provision to count such experience at the time of selecting of candidates for the post of E.D.D.A. is provided in the Rules. According to the Respondents, even though the selected candidate is less qualified than the Applicant, that candidate has been selected as per the guidelines in sub-para-3 of para 7-Section III of EDAs (Conduct and Service) Rules, 1964 which provides for proper representation to SC community and in this particular division, there was short-fall of the representation of SC community and the guidelines provide for giving preference to SC candidates in the matter of selection of EDAs ignoring higher qualified candidates provided the SC community candidate fulfills the minimum requisite qualification and the minimum qualification for the post of EDDA is VIII standard pass. In this context, they have referred to the letter of the D.G.P&T, dated 8th March, 1973. During the argument, it has also been pointed out by the counsel for the Respondents, by drawing our attention to the checklist prepared in respect of all the candidates that even if the case of Shri Patra, who has been selected was to be ignored, the applicant still will not get any benefit as another candidate, who has obtained higher marks in the HSC examination and belongs to SC community is available for selection. It has been submitted that the

11511

the Applicant had secured 261 marks in the HSC examination whereas the other candidate, at Sl.No.13 of the check-list has secured 338 marks in the HSC examination. It is also seen from the notification issued to the Employment Exchange it has clearly been mentioned therein that 'SC/ST candidates will be preferred' for the post in question. We have also gone through the letter of the DG P&T dated 8th March, 1978 (Annexure-A/4), wherein in paragraph 3 it has been provided as under:

*3. It is hereby clarified that candidates belonging to the Scheduled Castes/Scheduled Tribes with the minimum educational qualifications prescribed in this Office Letter No. 5-9/72-E.D. Cell dated the 18th August, 1973, viz., VIII standard for ED BPMs, VI standard for EDDAs and EDSVs and working knowledge of the regional language and simple arithmetic for other EDAs (and working knowledge of English for ED Messengers) should be given preference over the candidates belonging to other communities, even if the latter are educationally better qualified, provided that the candidates belonging to Scheduled Castes/Scheduled Tribes are otherwise eligible for the post".

From this, it is clear that preference was/is required to be given for the SC/ST candidates, over and above general the other candidates even if they are educationally better qualified provided that the candidates belonging to SCs/STs are otherwise eligible for the post. In this case, the selected candidate Shri Patra is VIII standard pass and has been found to be otherwise eligible by the Respondents and the notification clearly shows that SC/ST candidates will be preferred and this notification has been issued in the light of the fact that representation of the SC community in that particular sub division was less. This being

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the position, the selection of Shri Chandaneswar Patra as E.D.D.A. Agria Branch Post Office can not be faulted.

5. This Tribunal at the time of admission of this Original Application, vide order dated 19.12.1995 apart from directing the Standing Counsel to get instruction in the matter by 2nd January, 1996, had issued an order stating that till 2nd January, 1996, if the post in question is not filled up, it shall not be filled up. The Applicant has filed Contempt Petition No. 5/1996 stating that despite this direction of this Tribunal on 19.12.1995, the Respondents have gone ahead with the filling up of the vacancy by selecting and appointing Shri Patra as E.D.D.A. The Respondents in their reply to the Contempt Petition have stated that the orders of this Tribunal dated 19.12.1995 forwarded by the learned Standing Counsel was received by the Respondents only on 27-12-1995 by which time the person who was selected namely Shri Chandaneswar Patra had already joined the post on 26-12-1995. Accordingly, they contend that no contempt has been committed and there has been no wilful disobedience of the orders of this Tribunal. Accordingly, they have also expressed their regret and tendered their unqualified apology for the situation which had arisen because of the communication gap; because the Applicant has claimed that he had sent a letter to the Respondents communicating the orders of this Tribunal but the Respondents had refused to accept.

To this, the Respondents' contention is that they did not know the contents of the letter sent by the Applicant and hence, they have refused to accept the same. In the light of the situations enumerated above, the C.P.No. 5 of 1996 does not survive and accordingly the notice to the Respondents is discharged.

6. For the above reasons, we find no merit in this Original Application as well as in the C.P.No. 5/96 and both the cases are accordingly dismissed. However, there shall be no order as to costs.

Manoranj
06/09/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

V. Srikanth
(V. SRIKANTAN)
MEMBER (ADMINISTRATIVE)

KNM/CM.