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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH:CUTTACK.

ORIGINAL APPLICATION NO.787 OF 1995
Cuttack, this the 9th day of December, 1996

Smt. Maya Nahak & another

Applicants

Vrs.

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 Tribunal or not? No.

N.SAHU 9/12/96
(N.SAHU)
MEMBER(ADMINISTRATIVE)

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ORIGINAL APPLICATION NO.787/95
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CORAM:

HONOURABLE SHRI N.SAHU, MEMBER(ADMINISTRATIVE)

1. Smt. Maya Nahak, aged about 52 years,
wife of late Dina Nahak

2. Sri Rathi Nahak, aged 26 years,
son of late Dina Nahak,

Both are of village Chingidikhol,
Via-Kodala, Dist.Ganjam

.... Applicants

-versus-

1. Union of India, represented through
the Chief Post Master General, Orissa Circle,
Bhubaneswar, District-Khurda

2. Senior Superintendent of Post Offices,
Berhampur (GM) Division, Berhampur,
Dist. Ganjam

3. Sub-Divisional Inspector (Postal),
Berhampur (North) Sub-Division,
Berhampur, Dist. Ganjam

.... Respondents

Advocates for Applicants - M/s N.C.Pati &
S.K.Bal

Advocate for Respondents - Mr.Ashok Mohanty,
Sr.Central Govt.
Standing Counsel.

ORDER

N.SAHU, MEMBER(ADMINISTRATIVE) One Dinabandhu Nahak, working as EDDA of
Chingidikhol B.O. under Kodala S.O. in the district of Ganjam,
died on 27.10.1991 at the age of 56 years. He was a scheduled
caste. Compassionate appointment offered to one of his sons
was rescinded on 26.4.1992 on the ground that certificate produced
by him was not genuine. The present applicant No.2 is the second

son. The matter is concluded by the order of this Tribunal in O.A.No.176 of 1994, decided on 8.9.1994. This Tribunal had prescribed only one condition for applicant No.2, viz., he ought to establish that he is literate by producing a school leaving certificate. Applicant No.2 produced, by Annexure-3, a school leaving certificate to the effect that he was admitted into the Primary School, Ustali, on 26.6.1967 and he left the school on 27.6.1972. He was reading in Class III by 27.6.1972. The Circle Relaxation Committee rejected his case without recording any reason. This deficiency was made good in the counter affidavit by saying that the minimum educational qualification for the post of EDMC has been enhanced to Class VIII with effect from 1.4.1993. As applicant No.2 had only passed Class II, he is ineligible for consideration. Applicant No.2 states that he has no source of income and his elder brother stays away from the family.

2. Sri S.K.Bal, learned counsel for the applicant, made one point, viz., that the EDDA, Dinabandhu Nahak having died in 1991, applicant No.2 acquired the right to be considered in the same year and the minimum educational qualification required in 1991 shall have to be applied, and that qualification is, as held by this Tribunal, one must be literate. The learned Senior Standing Counsel vehemently urged that the Circle Relaxation Committee is entitled to go by the Rules on the date of consideration and on that date the

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minimum educational qualification is VIIIth standard.

3. The law is well settled that for all vacancies occurring on a particular date, Rules of recruitment (AIR 1983 SC 852, Y.V.Rangaiah v. J.Sreenivasa Rao) as prevalent on that date shall be applied. Besides that, the guidelines for compassionate appointment applicable to Postal E.D.Aagents, pages 138 to 140 of Swamy's Service Rules for E.D.Staff, 6th Edition, 1995, expressly confer a concession on educational qualification to widows, but do not give any such relaxation to others. While saying so, two other concessions were made. They are: (i) In some backward areas where candidates with the prescribed minimum educational qualification from even open market are not available, then a higher standard than what is usually available in the open market need not be insisted upon; and (ii) The local authorities will encourage the dependants appointed as ED Agents in relaxation of the minimum educational qualification to attain the prescribed minimum educational qualification within a reasonable period. There is considerable force in the contention of Sri S.K.Bal that the Rules prevalent in 1991 shall govern the applicant No.2's case. At any rate, the Tribunal's order that the candidate should be merely a literate has become final and such an order can no longer be kept aside on the ground of the 1993 criteria relating to educational qualification. While there is no mention in the brief by the Respondents, it is perhaps not disputed that the applicant No.2 is otherwise considered

deserving by application of the indigence test. The only other ground is that the Circle Relaxation Committee shall examine as to whether the applicant No.2 is literate as laid down by the order of this Court dated 8.9.1994 passed in O.A.No.176 of 1994. The Circle Relaxation Committee, after verifying the only standard of literacy, shall reconsider the applicant No.2's case for appointment within a period of three months from the date of receipt of copy of this order.

The Original Application is disposed of.

N.SAHU 9/12/96,
(N.SAHU)
MEMBER(ADMINISTRATIVE)

A.Nayak, P.S.