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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 12 OF 1996
Cuttack this the 23rd day of November, 1998

Bhagyadhar Senapati

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *NO*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *23/11/98*

23.11.98
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.12 OF 1996
Cuttack this the 23rd day of November, 1998

CORAM:

**THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)**
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Sri Bhagyadhar Senapati,
S/o.Late Banambar Senapati,
Vill-Balipada, Post:Dadha
Via:Barang, Dist:Khurda

...

Applicant

By the Advocates : M/s.Niranjan Panda
P.K.Padhi

-Versus-

1. Union of India represented through it's
Chief Post Master General(Orissa Circle)
At/PO:Bhubaneswar, Dist:Khurda-751001
2. Sr.Superintendent of Post Offices,
Cuttack City Division,
At:P.K.Parija Marg
Post:Cuttack G.P.O., Dist:Cuttack
3. Saroj Kr.Senapati, Baliapada
PO:Dera, Barang, Dist:Cuttack

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Respondents

By the Advocates : Mr.Ashok Mohanty,
Sr.Standing Counsel
(Central)(Res.1 & 2)

Mr.D.P.Das
(Res.3)

...

ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Respondent No.2, viz. Senior Superintendent of Post Offices, Cuttack City Division, to fill up the vacant post of Extra Departmental Branch Post Master of Dadha Branch, required the concerned employment exchange for sponsoring the names of eligible candidates. The name of the applicant Shri Bhagyadhar Senapati was sponsored by the employment exchange along with others. In letter dated 13.11.1995(Annexure-1). Respondent 2 instructed the candidates to submit applications in prescribed form so as to reach him not later than 4.12.1995. The applicant sent his application with required documents under Regd.Post with A.D. from Cuttack G.P.O. vide Regd. letter No.2757 dated 2.12.1995. This application was received by Res.2 on 6.12.1995 and was therefore, not considered. Hence this application under Section 19 of the Administrative Tribunals Act, 1985, filed on 4.1.1996 for issue of direction to Respondent No.2 to consider the application of the applicant on the ground that due to R.M.S. strike on 3.12.1995 and 4.12.1995, his application could not be received in time by Res.2 for which the applicant is not at fault and further ~~that~~ since he had sent the application by Regd.Post from Cuttack G.P.O. to Respondent No.2, whose office is also situated within 1 km. from ^{the} G.P.O., the Regd.letter was expected to be delivered in Res.2's office on the very same day, i.e. on 2.12.1995.

On 10.1.1996 this application was admitted and

and the Tribunal, as an adinterim measure directed the application of the applicant shall be considered along with others in case the selection had not been finalised by then and in case the selection has already been made neither any appointment order be issued nor the result of the selection be announced.

2. The stand of the department-respondents is that there is no rule that on the same day of registration the letter has to be delivered to the addressee. Further for delayed receipt of application of the applicant the department is no way responsible because the strike of R.M.S. conducted on 4.12.1995 was not at the instance of the department. Since a cut off date has been fixed by the department for receipt of applications, the department will not be obliged to consider applications which have been received beyond that date. It is the further case of the respondents that the employment exchange sponsored names of seven candidates including the applicant and all of them have been issued call letters under Regd.Post with A.D. to submit their applications with all required documents by 4.12.1995 with a clear indication that applications received after due date shall not be entertained. Out of six applications received, four were within time and two including the applicant were received on 6.12.1995. Since the percentage of marks secured in the Matriculation Examination is the criterion for selection for the post of Extra Departmental Branch Post Master, the applicant would not stand a chance in preference to the proposed

selected candidate, because while he had secured 297 out of full marks of 800, which comes to 37.12%, the other one secured 260 out of full marks of 700, the average of which comes to 37.14%. In otherwords the applicant has secured less percentage of marks than the proposed selected candidate.

3. During the pendency of the application Shri Saroj Kumar Senapati, the proposed selected candidate moved a petition as an intervenor and this has been allowed.

4. We have heard the submissions of learned counsels of both sides and perused the record. The facts stated above are not in controversy. As per relevant rules, percentage of marks in the Matriculation or H.S.C. is the criterion for selection for the post of E.D.B.P.M. Admittedly intervenor Shri Saroj Kumar Senapati secured more percentage of marks in Matriculation than the applicant. It is not clear from the counter when the selection process was over, i.e., whether over before the ad interim order was passed by the Tribunal. Be that as it may, even if the applicant's case would be considered, he would not be selected for the post of EDBPM in preference to intervenor Shri Saroj Kumar Senapati. In the result we do not see any merit in this application which is accordingly dismissed, but without any order as to costs.

The interim order passed on 10.1.1996 stands vacated.

(Signature)
(SOMNATH SOM)
VICE-CHAIRMAN

(Signature) 23.11.98
(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO