

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 313 OF 1996.
Cuttack, this the 10th day of August, 2000.

RABINARAYAN KHILLAR.

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APPLICANT.

- VERSUS -

UNION OF INDIA & OTHERS.

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RESPONDENTS.

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.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
SOMNATH SOM
VICE-CHAIRMAN
F.D. & C.M.O.

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CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

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Rabinarayan Khillar,
S/o. Radhakanta Khillar,
Village-Malda, PO/PS: Joda,
Dist: Keonjhar.

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APPLICANT.

By legal practitioner: Mr. Alekh Ch. Mohanty, Advocate.

- Versus -

1. Union of India represented through the Chief Postmaster General, Orissa, Bhubaneswar, Dist. Khurda.
2. Superintendent of post Offices, Keonjhar Division and Keonhargarh.
3. Tahasildar, Badbil, At/PO: Badbil, Dist. Keonjhar.
4. Sri Kulamani Aruk, S/o. Balaram Aruk, Vill. Mauda, PO: Joda, Dist. Keonjhar.

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RESPONDENTS.

J. J. M.
By legal practitioner: Mr. A. K. Bose, Senior Standing Counsel,
Mr. K. C. Mohanty, learned Govt. Advocate.

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents, Superintendent of Post Offices, Keonjhar Division, Respondent No. 2 to ignore the Income certificate given by Respondent No. 4 and set aside the order of appointment of Respondent No. 4 to the post of E.D.B.P.M., Malda Branch Post Office. Besides the Authorities of the postal Department and the selected candidate, Respondent No. 4, the applicant has made the Tahasildar, Badbil, who has issued the Income Certificate in favour of the Respondent No. 4, as respondent No. 3. Departmental Authorities have filed counter opposing the prayer of the applicant and the Respondent No. 3, the Tahasildar, Badbil has also filed counter justifying the Income Certificate issued in favour of Respondent No. 4. Respondent No. 4 was issued with notice but he did not appear nor filed counter.

2. For the purpose of considering this O.A., it is not necessary to go into too many facts of this case.

3. We have heard Mr. A.C. Mohanty, learned counsel for the Applicant, Mr. A.K. Bose, learned Senior Standing Counsel appearing for the Departmental Respondents and Mr. K.C. Mohanty, learned Govt. Advocate appearing for Respondent No. 3 and have also perused the records.

4. The admitted position is that for the post of EDBPM, Malda Branch Post Office, applicant and Respondent No. 4 were both considered alongwith others and Respondent No. 4 was selected. Applicant has challenged the selection of Respondent No. 4 on two grounds; firstly that he has got higher marks than Respondent No. 4 in the matriculation examination and secondly relating to the

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Income Certificate issued in favour of Respondent No. 4.

Departmental Respondents have pointed out that the selected candidate Respondent No. 4 has got 293 marks representing 41.85% whereas the applicant has got 283 marks representing 40.42%. In view of this, learned counsel for the applicant has not pressed this point regarding the applicant having secured higher marks. He has confined his submission with regard to the Income certificate obtained by Respondent No. 4 from the office of the Respondent No. 3 and submitted to the Departmental Authorities. Submission of learned counsel for the applicant with regard to the Income certificate is two fold; firstly it has been submitted that the Income of Respondent No. 4 from land has been shown as Rs. 5000/- whereas his land in his possession is only 22 decimals and from 22 decimals of land the annual income of Rs. 5000/- can not be derived and therefore, the Income Certificate is incorrect in this respect. His second point is that as against the total income of Rs. 8000/- of Res. No. 4, the Income of applicant is Rs. 15000/- and as one of the eligibility criterion for appointment to the post of EDBPM is that the selected candidate must have the independent livelihood and as he has got higher level of income he should have been selected. Tahasildar, Badbil in his counter has pointed out that besides this 22 decimals of land, the Respondent No. 4 possesses other lands and the total land in possession of Respondent No. 4 is 4.02 decimals. He has also justified issuing of Income certificate to the tune of Rs. 8000/- in favour of Respondent No. 4. Applicant has mentioned in his petition that challenging the issue of income certificate to Respondent No. 4 he has filed a petition before the Tahasildar but he has not indicated nor did the applicant's counsel mention during the hearing of the fate of the petition filed before the Tahasildar. As the competent authority has granted the Income

certificate the Departmental Authorities are obliged under the law to take into consideration the Income certificate till it is cancelled by the appropriate authorities. In view of this, it is not possible to hold that the Income certificate issued by the competent authority in favour of Respondent No. 4 has been obtained by misrepresentation.

5. As regards the other points of the applicant of higher level income, there are instructions of the Department that for the purpose of selection for the post of EDBPM, from amongst the eligible candidates, the percentage of marks secured in the matriculation examination shall be the basis for selection and the fact of having higher income would not ~~give~~ ^{get} preference ~~over~~ ^{to} the higher marks secured by a candidate in the matriculation examination.

6. In view of this, we hold that the Original Application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM
VICE-CHAIRMAN, 2010)

KNM/CM.