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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 319 OF 1996.

Cuttack, this the 30<sup>th</sup> day of June, 1999.

Umesh Majhi.

....

Applicant.

- Versus -

Union of India & Others.

....

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*

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*30.6.99*

*30-6-99*  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 319 OF 1996.

Cuttack this the 30<sup>th</sup> day of June, 1999.

C O R A M :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN  
&  
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL) .

Unesh Majhi,  
S/o Laua Majhi,  
Office of Deputy Director  
of Accounts (Postal),  
Barabati Stadium,  
Cuttack-753 003.

... Applicant.

By legal practitioner; M/s. Sanjit Mohanty, N.C. Sahoo, Advocates.  
S.P. Panda.

-Versus-

1. Senior Audit Officer Incharge,  
the Post and Telecommunication,  
Audit Office, Cuttack-5.
2. The Director of Audit (P&T),  
Office, 7 Koilaghat Street, Calcutta-1.
3. Union of India through Director General,  
Audit Posts and Telecommunication,  
Civil Lanes, New Delhi-110 004. ... Respondents.

By legal Practitioner; Mr. Ashok Mohanty, Senior Standing  
Counsel (Central).

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O R D E R

Mr. G. Narasimham, Member (Judicial)

In this Original Application filed on 24-4-1996,  
applicant, Unesh Majhi, prays for issue of direction to  
Respondents to issue appointment order in his favour to the  
post of Gr.D (Peon) for which post, he was called/ for interview on 6.6.95  
and subsequently, medical test and accordingly intimated  
about the selection under Annexure-2, dated 19.12.1995. As  
he was not issued with any appointment order, this application  
has been filed.

2. Respondents i.e. Directorate of Audit, P&T, take the stand that the minimum educational qualification for the post is passed in 8th standard. Applicant did not pass 8th standard. He was, as per the educational qualification, attached to the application detained in Class -VIII (Annexure-B). This could not be noticed, at the time of selection due to over-sight. On subsequent detection, the matter was referred to the Comptroller and Auditor General of India, under Annexure-C, for clarification. In the meanwhile, applicant preferred this original application.

No rejoinder, has been filed. However, on 17.4.98, applicant filed an affidavit alongwith xerox copy of the certificate which he marked as Annexure-8 disclosing that he had passed 8th class during the educational session of 1996-97 from Bangradevi High School, Bangra in the district of Mayurbhanj.

3. We have heard Mr. N.C. Sahoo, learned counsel for Applicant and Mr. Ashok Mohanty, learned Senior Standing Counsel (Central) appearing for the Departmental Respondents. Also perused the records. It is not the case of applicant in his application u/s. 19 of the Administrative Tribunals Act, 1985 that a candidate who has not passed 8th standard is also eligible for selection to the post. The minimum educational qualification of 8th class passed averred in the counter by the Department has not been refuted by the applicant through any rejoinder. The contention of applicant, is, however that since he has been called for the interview and the medical test it is presumed that the Department was satisfied that he had the minimum educational qualification. We are not impressed with this short of contention when the specific stand of the

Department is that this post carries the minimum educational qualification, 8th standard passed, which has not been refuted through any rejoinder. In other words, applicant had not possessed the requisite educational qualification when he applied for the post. Annexure-B, the transfer certificate issued by the Headmaster, Tulsipur High School, Cuttack on 11.2.1994 reveals that he left that School on 31.5.1989 and by that time he was detained in class VIII. It is true that on 17.4.1998 applicant filed an affidavit alongwith the xerox copy of certificate dated 17.7.1997 purported to have issued by the Headmaster, Bangradevi High School, Bangra in the District of Mayurbhanj. This xerox copy of the certificate is marked as Annexure-8. A document of fact introduced subsequent to the filing of the Original Application u/s. 19 of the Administrative Tribunals Act, 1985 can not form a part of the pleadings unless the Original Application is permitted to be amended accordingly because under Rule 9 of the CAT (Procedure) Rules, 1987, copies of documents relied on by applicant and referred to in the application (emphasis supplied), are to be marked as Annexures. This School Leaving Certificate and the affidavit have not been referred to in the Original Application. Hence without amendment to the Original Application, the affidavit and the certificate can not be taken note of. Original Application has not been amended.

Even otherwise, this certificate issued by the Headmaster of Bangra Devi High School, is taken into account, it will not qualify the applicant for the post since he had not possessed the minimum educational qualification at the time when he applied for the post. The certificate reveals that he passed the annual 8th standard examination during the

session 1996-97 as a regular student of the School. On the other hand this certificate, if taken into account will establish that on the date he was called for the interview and medical test, he had not passed 8th class. This apart, this xerox copy itself appears to be not genuine because this application was filed in April, 1996. Applicant had given his address as a resident of Cuttack. Even his own application reveals that he had registered his name in the Employment Exchange, Cuttack. Intimation regarding interview and medical test has been sent to him at his Cuttack address. Annexure-B is the School leaving Certificate issued by the Headmaster, Tulsipur High School, Cuttack and it further reveals that he left that institution on 31.5.1989 after having failed in 8th class. It is therefore, not understood how he could appear in that school said to have been located in the District of Mayurbhanj as a 'regular' student during 1996-97 session. If this certificate is accepted as correct, then he could not have been residing at Cuttack during that relevant time. Be that as it may, even if the certificate at Annexure-8, is accepted as true and taken as a part of the pleadings, still then it will not qualify him for the post at the time he applied for the post.

4. In view of the discussions made above, we find no merit in this Original Application which is accordingly dismissed but in the circumstances, there shall be no order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
V. CE - CHAIRMAN  
6.99

*(G. NARASIMHAM)*  
MEMBER (JUDICIAL)