

5

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 800/95 & 31/1996

Cuttack this the 5th day of Sept/02

IN O.A.NO. 800/95

S.G. Murty

...

Applicant(s)

-VERSUS-

Union of India & Ors. ...

Respondent(s)

FOR INSTRUCTIONS

IN O.A.No. 31/96

B. Sethi

...

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 *Nv* Central Administrative Tribunal or not ?

[Signature]
05/09/2002
(M.R. MOHANTY)
MEMBER (JUDICIAL)

[Signature]
(V. SRIKANTAN)
MEMBER (ADMINISTRATIVE)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 800/95 & 31/1996
Cuttack this the 5th day of Sept/2002

CORAM:

THE HON'BLE MR.V.SRIKANTAN, MEMBER(ADMINISTRATIVE)
AND
THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)
...

IN O.A.800/95

Sakeri Guru Murty, aged about 34 years, Son of Sri G. Krishna Murty, Extra Departmental Delivery Agent-cum-Mail Carrier, at Gaulajholi Branch Office in a/c with Kukudakhundi Sub-Post Office, Berhampur(GM) Division, District-Ganjam

...

Applicant

By the Advocates

M/s.S.Kr.Mohanty
S.P.Mohanty
P.K.Lenka

-VERSUS-

1. Union of India represented by its Secretary, Department of Posts, Dak Bhawan, New Delhi
2. Chief Postmaster General, Orissa Circle, Bhubaneswar
3. Senior Superintendent of Post Offices, Berhampur(GM) Division, Berhampur
4. Sri Dandasi Nayak, Group D, Berhampur City Sub Post Office, Berhampur, Dist-Ganjam
5. Sri C.H.Krishna Rao, ED Stamp Vendor, Chhatrapur Head Post Office, Chhatrapur, Dist-Ganjam
6. Sri Laxminarayan Dala Behera, Branch Post Master, Jallang (Rayagada), Dist-Rayagada
7. Sri C.S.S Samantaray, Branch Post Master, Panchama, Via-Golatar, Dist-Ganjam
8. Sri BhaskarMuduli, Branch Post Master, Kalayanpur Branch Post Office, Via-Ganjam, Dist-Ganjam
9. Sri Radhakanta Pattnaik, EDDA-cum-EDMC, Humri, Via-Chhatrapur, Dist-Ganjam
10. Sri Abhimanyu Pradhan, EDBPM, Jirang, Via-Narayanpur, Dist-Ganjam
11. Sri A.Sanyasi, EDDA, Kukudakhundi S.O., Dist-Ganjam
12. Sri Narahari Behera, EDMC, Mathasarsingi, Via-Modala, Dist-Ganjam
13. Sri Bhaskar Nayak, EDDA, Parimal, Via-R.Udayagiri, Dist-Ganjam

...

Respondents

By the Advocates

M/s.A.K.Bose,
Sr.Standing Counsel
(Central)

M/s.P.V.Ramdas
P.V.B.Rao
(For Res.7, 9 & 10)

.....

IN O.A. No.31/96

Sri Babu Sethi (E.D.Messenger), S/o. Sri Madi Sethi,
At/PO-Patrapur, District-Ganjam (Orissa)

...

Applicant

By the Advocates

M/s.P.K.Padhi

-VERSUS-

1. Union of India through its Secretary, Ministry of Communications, Dak Bhawan, New Delhi-110001
2. Chief Postmaster General (Orissa Circle), At/PO-Bhubaneswar, Dist-Khurda-751001
3. Postmaster General, Berhampur Region, At/PO-Berhampur Dist-Ganjam (Orissa)
4. Senior Superintendent of Post Offices, At/PO-Berhampur, Dist-Ganjam (Orissa)
5. Abhimanyu Pradhan, At/PO-Jiranga Narayanpur, Dist-Ganjam (O)
6. Narahari Behera, At/PO-Matasarasingi, Via-Kodala, Dist-Ganjam (O)

...

Respondents

By the Advocates

Mr.A.K.Bose, Sr.S.C.

Mr.B.DAS, A.S.C.

(Res. 1 to 4)

M/s.P.V.Ramdas,

P.V.B.Rao

(For Res. 5)

O R D E R

MR.V.SRIKANTAN, MEMBER(ADMINISTRATIVE): Since these two

Original Applications pertain to one and the same examination, this common order is being passed.

2. Respondent No.3, viz. Senior Superintendent of Post Offices, Berhampur Division ^{would instruct that} 21.11.1995(Annexure-1) for holding Departmental Examination on 29.1.1995 for promotion to the

cadre of Postman from amongst Group D and E.D.Officials against the vacancies available upto 31.12.1994. The vacancy position was subsequently indicated vide Annexure-4 dated 31.8.1995 to O.A.31/96, which is as under:

	SC	SC	ST	OBC
Departmental quota, Group - D officials	3	1	1	Nil
Outsiders quota E.D.Officials	3	1	1	Nil

The Departmental Examination scheduled to be held on 29.1.1995 was postponed by letter dated 20.6.95 and the Examination was actually held on 9.7.1995. The results of the examination held on 9.7.1995 was announced by Res. No.4 on 25.9.1995. The applicant in O.A.800/95 received his marksheet on 30.10.1995. The applicant represented to Respondent No.3 on 15.12.1995 against the marks awarded to him and sought for revaluation and being aggrieved, he has filed this Original Application. Representation was also filed by the applicant in O.A.800/95 on 27.11.1995 before Respondent No.2 highlighting the inaccuracy and deficiency in marking and his non selection against the vacant quota and meant for S.C/ thereafter he has filed this application before this Tribunal.

3. The contentions of the applicants are that though the Departmental Examination was scheduled to be held on 29.1.1995 was actually held on 9.7.1995 under intimation of postponement given on 20.6.1995. In terms of the instructions three months' time is required to be given before the holding of the examination and this was violated in these cases.

Another contention raised by the applicants is that the sealed cover containing the question papers (a) (b) and (c) were not shown by the Respondent No.4 to satisfy the appearing in the examination that the sealed covers were not tampered before the conduct of the examination. The another contention is that the applicants are not happy with the marks awarded to them .

4. The applicant in O.A.31/96 has stated that as per vacancy announced earlier, there were two vacancies reserved for S.C. community. But it is seen in the list of successful candidates that only 1 successful candidate in the S.C. community has been appointed and another vacancy has been given to an O.B.C. candidate and that in the vacancy position as indicated earlier, there was no reservation for O.B.C. It is his contention that this O.B.C. vacancy should have been given to him as earlier indicated that there were two vacancies for S.C. community and that he has been deprived of this benefit.

5. The Respondents have filed their reply by stating that there has been no violation of rules with regard to holding of the examination and that three months' period is required only for the purpose of calling for applications for holding the examination. In this case the process had already been completed through notification dated 29.1.1995 and the examination was only being postponed through letter dated 20.6.1995 and thereafter held on 9.7.1995 and therefore, three months' period after 20.6.1995 was not required to be given as no fresh formalities were required to be maintained

As regards the sealed cover ~~not~~ being tampered with, the Respondents have stated that it was opened in the examination in the presence of the candidates and signatures of the candidates were obtained and accordingly there was no truth in the allegation made by the applicants. In so far as the marks awarded to the candidates, the Respondents have pointed out that there was no provision in the Rules for revaluation of the answer scripts and at best the applicants could have sought for retotalling. The last point with regard to allocation of roster point in between the successful SC and OBC candidates, it is admitted by the Respondents that in the notification they had indicated 2 vacancies in respect of S.C. community and OBC was nil, but on the basis of roster point which was done subsequently on the basis of the results, under S.C. category, roster point was 1 and therefore, another roster point had been allotted in respect of the OBC; and accordingly the successful candidates were appointed against those vacancies.

6. Heard the learned counsels for the parties in both the above mentioned O.A.s separately and perused the records.

7. As regards the postponement of the examination, the applicants have no point as ^{no} fresh notification was issued ^{only} for holding the examination and ^{only} the examination to be held was postponed after completion of all the formalities. In view of the fact that Respondents have clearly stated that the bundle was opened in front of all the candidates and ^{of the candidates} signatures/were obtained, there was no truth in the allegations made by the applicants. It is also seen that as per Rules, revaluation of the answer scripts is not

9

permitted and only a retotalling of the marks is possible. The only point for consideration is regarding appointment given to only one S.C. and to O.B.C. candidate when the original vacancy position was indicated 2 in respect of S.C. candidates and that there was no vacancy for OBC. With a view to ascertain the correct position, we had asked the learned counsel for the Respondents to produce before us the original records and ^{to} (we are not) satisfied ourselves that the roster point was carried out correctly. During hearing it was clarified by the learned counsel for the Respondents that in respect of departmental candidates a 40 point roster is maintained whereas in respect of outsiders (E.D. officials) 100 point roster is maintained. On the basis of the results, only one departmental candidate had cleared the examination and as a result, the balance four vacancies were added to merit quota meant for 100 point roster. ^{Accordingly} Secondly, ^{independent} the roster points were changed ⁴ as a result of which only 1 OBC candidate had to be added as it came within the roster point and only 1 SC point has been revised in the roster, which is based on the basis of list of successful candidates being announced. The learned counsel for the Respondents also produced before us the marks allotted in favour of S.C. candidates. It is claimed that had 2nd SC point been available, he would have been declared successful. It is seen that the SC candidates in this application ~~Shri Babu~~ Sethi (O.A.31/96) has secured 111½ marks. But there are three other S.C. candidates who have secured higher marks. This being so, even if a 2nd vacancy was available, the same could not

be made available to accommodate Shri Babu Sethi. As regards the O.B.C. vacancy, the applicant Shri S.G.Murty in O.A.800/95 did not submit OBC certificate, but has claimed that he should have been considered under the OBC category. Even if this plea is accepted, it is seen that Shri Murty has secured 112 marks and there are four other candidates belonging to OBC category, who have secured the higher marks than this applicant. Accordingly, Shri Murty could not have been accommodated against the OBC vacancy. He had raised a further question with regard to ¹³⁵ marks allotted to the ^{OBC} candidates and we see this was justified in terms of the marks allotted to OC candidates. The Respondents have also produced the marks allotted to OC candidates and it is seen that the ^{best} candidates in the O.C. category, who have been declared successful, have secured 131 marks. Accordingly, the OBC candidates should have been figured in the general list under the OC category. But ^{even if} then this would not benefit either of the applicants and the appointments made thereon.

In the result, we do not see any merit in these two O.As, which are accordingly dismissed. No costs.

(M.R.MOHANTY)
MEMBER(JUDICIAL)


(V.SRIKANTAN)
MEMBER(ADMINISTRATIVE)

Eiy/