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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 351 OF 1996  
Cuttack this the 3<sup>rd</sup> day of December, 1999-2000  
January

Rudra Prasad Sahoo

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
3.12.2000

3.12.2000  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

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CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 351 OF 1996  
Cuttack this the 3rd day of December, 1999-2000

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CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Rudra Prasad Sahoo,  
aged about 21 years, Son of  
Bibhuti Bhushan Sahoo  
of Vill/PO: Risol, P.S: Kakatpur  
Dist: Puri

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Applicant

By the Advocates : M/s.B.Biswal  
D.Ku.Biswal J.Sengupta,  
A.K.Mishra

-Versus-

1. Union of India represented by its Post Master General, P.M.G. Square, At/Po/PS: Bhubaneswar, Dist: Khurda
2. Sr.Superintendent of Post Offices, Bhubaneswar, Division, At/PO/PS: Bhubaneswar, Dist: Khurda
3. Sub-Divisional Inspector of Post Offices, Nimapara Sub-Division, At/Po/PS: Nimapara, Dist: Puri
4. O/S Mail (Postal Overseer), Nimapara Sub-Division, At/Po/PS: Nimapara, Dist: Puri
5. Prafulla Kumar Sethy, S/o. Sri Chalekha Sethi, At: Talada, Po: Lataharan, PS: Kakatpur, Dist: Puri

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Respondents

By the Advocates : Mr.A.K.Bose, Sr.Standing  
Counsel(Central)(For Res. 1  
to 4)

M/s.P.R.Dash,  
S.Mohanty  
(Res. 5)

J.K.Sahu,

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): In this application praying for quashing the selection and appointment of Res.5(Annexure-4) to the post of Extra Departmental Branch Post Master, Resol, the applicant had applied for the post and his case was considered along with Res.5 and two others and ultimately Res.5 was appointed to the post which became vacant due to retirement on superannuation of the previous incumbent.

The case of the applicant is that Office of E.D.B.P.M. at that place has been running in his house since last several years. After retirement of the previous incumbent it was under the charge of N.C.Mallick, E.D.D.A. As Shri Mallick went on leave, he kept the applicant in charge of that dual posts as his substitute. On 19.4.1996, Res.4 arrived at the Post Office with Respondent 5 and asked the applicant to hand over the charge to Res.5 on the ground that the latter has been appointed as E.D.B.P.M. The applicant then expressed inability and submitted representation to the Inspector of Post Offices under Annexure-3. Thereafter he filed this Original Application. On 17.5.1996, the then Single Member of this Bench stayed the appointment order of Res.5. This stay order continued till 5.1.1999 when on the petition of the Department, through an elaborate order, we vacated that stay order with a stipulation that appointment of Res.5 or any other person to this post should be subject to the result of this application.

The case of the applicant is that he secured higher percentage of marks in H.S.C. examination than Res.5. Yet without conducting any interview, Res.5 was illegally

selected and appointed to the post of F.D.B.P.M.

Respondent 5 filed counter justifying his selection and appointment to the post in question.

2. The Departmental respondents in their counter admit that among the four candidates considered for selection, the applicant secured higher percentage of marks in H.S.C. examination, but he was not considered for selection because the Income Certificate produced by him stands in the name of his father whereas income certificate produced by Res.5 stands in his own name. Even the annual income from agricultural land of his father is barely Rs.3200/-. Since one of the requirements for appointment to the post of F.D.B.P.M. is that the selected candidate must have adequate means of livelihood and as per the circular issued by the D.G.(Posts) that source of livelihood must be from immovable assets like lands and so on, and the applicant having no such source of lievelihood in his name was not qualified to be selected and appointed to the post.

3. Applicant in his rejoinder while reiterating the facts made in the application had taken additional stand that he in fact filed income certificate in his own name disclosing annual income of Rs.15, 000/- from agricultural source.

4. We have heard Shri A.K.Mishra, learned counsel for the applicant and Shri A.K.Bose, learned Sr.Standing Counsel appearing for the departmental respondents so also Shri P.R.Dash, learned counsel appearing for Res.5. On our direction learned Sr.Standing Counsel produced the concerned selection file by the Department for our perusal.

5. As per the recruitment rules for the post of

E.D.B.P.M., percentage of marks secured in H.S.C. examination is the criterion. Whoever secures the highest percentage of marks in the H.S.C. examination among the candidates considered for the post is normally to be selected and appointed. It is not the case of the Department that Res.5 has been selected because he is a candidate belonging to Scheduled Caste community and that there was short fall in representation of S.C. candidates in respect of E.D. Agents in that Division. The only excuse offered by the Department is that whereas Res.5 filed income certificate standing in his name, but no such certificate was filed by the applicant, who, on the other hand filed a certificate showing income standing in the name of his father. As earlier stated, in the rejoinder, the applicant took a specific stand that he also filed income certificate disclosing the income in his own name. For this reason we have called for the relevant Selection File for our perusal. On perusal of this file bearing No.A/229/PF of FDBPM, Resol Branch Office, we came across a solvency certificate issued by the Tahasildar, Kakatpur on 15.3.1995 in Misc.Case No.1287/95 in the name of the applicant which reveals that the applicant is solvent to the tune of Rs.15, 000/- in respect of agricultural income. The applicant submitted his application dated 13.4.1995 in prescribed form enclosing thereto eight certificates. All the eight certificates do form part of this file and one of this certificates is which ~~is~~ mentioned at Sl.No.3 which corresponds to solvency certificate issued by the Tahasildar, in the name of the applicant in respect of agricultural land valued Rs.15, 000/-. It is surprising

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how the Department could take this stand in the counter completely ignoring this solvency certificate. It comes to this, in order to favour Res.5, they had deliberately not taken into account this solvency certificate issued by a competent revenue authority in the name of the applicant. Thus it is seen that the applicant is also solvent upto a tune of Rs.15, 000/- through agricultural land and has definitely adequate means of livelihood. In other words, ignoring the case of the applicant Res.5 was illegally selected and appointed.

It is seen from the check sheet ~~if~~ that out of four candidates considered for selection, applications of two other candidates were incomplete, in the sense, one candidate had not submitted his mark-sheet and the other had no certificate of property standing in his name. Hence the real competition held between the applicant and Res.5. As discussed above, applicant ~~is~~ not only more meritorious than Res.5 in securing higher percentage of marks in the H.S.C., but also a person having adequate means of livelihood, and as per the departmental rules, he must have been selected and appointed in preference to Res.5 to the post of E.D.B.P.M., Resol.

6. For the reasons discussed above, we quash the selection and appointment of Res.5(Annexure-4) to the post of E.D.B.P.M., Resol B.O. and direct the Respondents(Department) to appoint the applicant to that post within a period of 15(Fifteen) days from the date of receipt of this order.

7. Application, in the result, is allowed, but no order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
B.K.SAHOO

3.1.2000  
(G.NARASIMHAM)  
MEMBER(JUDICIAL)