

5

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 456 OF 1996.  
Cuttack, this the 4th day of September, 2002.

NABIN KUMAR CHHURA. .... APPLICANT.  
VRS.

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? Yes

*Yours  
04.09.2002*  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)

*V. Srikantan*  
(V. SRIKANTAN)  
MEMBER (ADMINISTRATIVE)

6  
6  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 456 OF 1996.  
Cuttack, this the 4th day of September, 2002.

CORAM:-

THE HONOURABLE MR. V. SRIKANTAN, MEMBER (ADMINISTRATIVE)  
AND  
THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL).

....

Nabin Kumar Chhura,  
At/PO: Palsada,  
Via: Paikmal,  
Dist: Bargarh.

....

....

APPLICANT.

By legal practitioner: Mr. D. P. Dhal Samant, Advocate.

- Versus -

1. Union of India represented through  
Chief Postmaster General, Orissa Circle,  
Bhubaneswar- 751 001.
2. Postmaster General, Sambalpur Region,  
Sambalpur- 768 001.
3. Senior Superintendent of Post Offices,  
Sambalpur Division, Sambalpur-1.
4. Overseer of Mails, Now working as  
BPM, Palsada, At/PO: Palsada,  
Dist: Bargarh.

....

RESPONDENTS.

By legal practitioner: Mr. A. K. Bose,  
Senior Standing Counsel (Central).

....

6  
6  
C

✓ 7 2  
11/2/1

ORDER

MR. V. SRIKANTAN, MEMBER (ADMINISTRATIVE) :-

The Applicant was sponsored by the Employment Exchange, Padamapur for selection and appointment to the post of Extra Departmental Branch Post Master, Palsada Branch Post Office, in account with Paikmal Sub Post Office. Applicant submitted all the required documents to the Respondent No. 3 in response to his letter dated 19. 10.1995. Applicant on being selected for appointment was also given training before joining to the post as required under the Rules. But after the training, no appointment order has been issued to him. Being aggrieved by not issuing the orders of appointment in his favour, the applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 with a prayer for a direction to the Respondents to allow the applicant to join the post in question.

2. The contention of the applicant is that having been found more suitable among the candidates, who were in the zone of consideration, after due process of selection, and having ~~been~~ undertaken the training, as required under the rules before such appointment, non-issuance of the order of appointment is highly illegal, arbitrary and unjust.

3. Respondents have filed their counter stating that the applicant had secured 309 marks in the HSC

//3//

Examination and was accordingly provisionally selected for the post but subsequently, on receipt of complaint, the entire selection process was reviewed and it was noticed that person securing more marks than the applicant had been ignored and the applicant having less marks has been selected for the post. They have stated that one Fakir Ch. Panigrahi, has secured 310 marks in the HSC Examination and has fulfilled all the requirements, <sup>hence</sup> but there was no reason to ignore the case of Shri Panigrahi to be selected for post having secured higher marks than the applicant. According, the appointment of the applicant was kept in abeyance.

4. The applicant has filed a rejoinder in which he has stated that Shri Fakir Ch. Panigrahi, had qualified in the HSC examn. in compartmental and had secured less marks than the applicant. This being the position, the Respondent were not right in keeping the order of appointment of the applicant in abeyance. In this contention, learned counsel appearing for the applicant has also drawn our attention to the instructions issued by the Respondents vide letter dated 8-3-1995, under Annexure-Y. Relevant portion of the said instruction, at para-2, is extracted below:

\*2. The issue raised has been examined in this office carefully. It is clarified that a person who has passed the examination which has made him eligible for appointment as EDA in the

first attempt should be placed above in the merit list than the person who has secured higher mark in the second or third attempt by appearing/completing compartmentally in individual subjects. The other eligibility conditions for appointment will remain the same".

It is clear from this instructions that person who has passed the HSC examination in the first attempt should be placed above in the merit list than a person who has secured, even higher marks in the second or third attempt by appearing/completing compartmentally in individual subjects. It is not being denied by the Respondents that Shri Fakir Charan Panigrahi had completed the HSC examination compartmentally after availing morethan one chance.

5. Heard Mr. Dhalsamant, learned counsel for the Applicant and Mr. A. K. Bose, learned Senior Standing Counsel for the Union of India appearing for the Respondents.

6. It is contended by the counsel for the Respondents that one Shri Fakir Charan Panigrahi having secured higher mark than the applicant in the HSC examination was more eligible and should have been selected. However, this argument is totally contrary to the instructions issued by the Respondents themselves, which indicates that compartmentally passed candidate with higher marks shall be ranked lower than the candidate who has passed HSC examination in one chance. In the said

10

10

115//

~~brief~~ we are of the considered view that the applicant was rightly selected and sent for training and the other candidate Shri Fakir Charan Panigrahi, has no right to the post.

7. For the above reasons, we find merit in this Original Application and the Respondents are hereby directed to issue the appointment order in favour of the applicant within a period of one month from the date of receipt of a copy of this order. However, in the circumstances, there shall be no order as to costs.

*Manoranjan Mohanty*  
04.09.2002

(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)

*V. Srikantan*  
(V. SRIKANTAN)  
MEMBER (ADMINISTRATIVE)