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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 475 OF 1996

Cuttack, this the 29th day of November, 1996

Sri P.Satya Narayan Patra

...

Applicant

-versus-

Union of India and others

....

Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? No.
- 2) Whether it be circulated to all the Benches of No., the Central Administrative Tribunal or not?

Pranavini
(N.SAHU) 29/11/96
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.475 OF 1996
Cuttack, this the 29th day of November'96

CORAM:

HONOURABLE SHRI N.SAHU, MEMBER (ADMINISTRATIVE)

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Sri P.Satyanarayan Patra,
aged 27 years, s/o Sri P.Banchhanidhi
Patra, Vill/Post: Chatamandali,
Via.Pandia, Dist:Ganjam (Orissa) **Applicant**

-versus-

1. Union of India, represented by its
Chief Postmaster General (Orissa),
At/P.O-Bhubaneswar, Dist.Khurda-751001.
2. Postmaster General (Berhampur Region),
At/P.O: Berhampur, Dist.Ganjam, Orissa.
3. Senior Superintendent of Post Offices,
Berhampur Postal Division,
At/P.O: Berhampur (Gm)Dist:Ganjam,
Orissa-760 001.
4. Santosh Kumar Sahu (EDBPM),
S/o Sri Bhagaban Sahu,
At/P.O: Chatamundali, Via- Purushottampur,
District-Ganjam)(Orissa) **Respondents**

Advocate for applicant - **Mr.P.K.Padhi**

Advocates for respondents - **Mr.Ashok Mohanty, and
M/s P.V.Ramdas &
P.V.B.Rao.**

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O R D E R

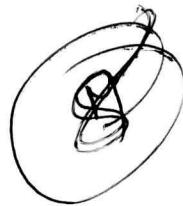
N.SAHU, MEMBER(ADMN.)

In this application the applicant seeks a direction to quash the selection of the Respondent No.4 as E.D.B.P.M. of Chatamundali B.O. and, in addition, seeks a direction for his appointment. The brief facts are that the

post of E.D.B.P.M. of Chatamundali B.O. fell vacant on account of the put-off duty of the permanent incumbent Sri Upendra Pradhan. The Employment Exchange, Chatrapur sponsored 6 (six) candidates of whom two candidates submitted their applications after the last date and only one candidate submitted her application within the due date. Consequently Respondent No.3 issued a public notification calling for applications before 10.11.1995 along with all documents. Respondent No.4 was selected. The applicant challenges the selection of Respondent No.4 on two grounds. It is alleged that the income certificate was received late and therefore, such a certificate should not have been considered. The second ground is that the applicant had obtained higher marks in the matriculation examination than that of Respondent No.4. In the counter affidavit filed by the official Respondents as well as Respondent No.4, the factual aspect of the applicant getting higher marks is denied. When this matter came up in the Bar for a discussion, it is made very clear that Respondent No.4 secured a higher percentage of marks. The applicant has a Sanskrit qualification and Respondent No.3 confined the comparison between the subjects in which Respondent No.4 and the applicant appeared, and found that Respondent No.4 secured higher percentage of marks than the applicant. May be on account of extra paper the applicant in aggregate secured higher marks, but that is neither here nor there. I, therefore, take it that Respondent No.4 has secured a higher percentage of marks and on that count, his selection cannot be faulted.

2. The most important charge on behalf of the applicant is that Respondent No.4 received his income certificate from the Tahasildar on 9.1.1996, i.e. two months after the last date for submission of application. In the counter it is stated that one income certificate was issued in the year 1983 and this certificate was enclosed with the application. The other defect in the income certificate filed was that there was a clerical mistake in the entry to the effect that in place of Santosh Kumar Sahu, son of Bhagaban Sahu, the reverse was the narration. As mentioned by the private Respondent in his counter affidavit, Respondent No.4 was asked to produce a corrected copy of the income certificate.

3. The applicant's counsel, Sri P.K.Padhi draws my attention to a clarification of the C.P.M.G. (Respondent No.1) in a circular letter dated 18.9.1995 to the effect that if a candidate at the time of making application does not satisfy the income/property condition but acquires this qualification subsequent to the submission of the application and sends a written request enclosing documentary evidence in continuation of his application and the same is received within the stipulated date, the recruiting authorities should entertain the same. However, if such an intimation is received after the last date prescribed or the development regarding acquisition of this qualification itself takes place after the last date prescribed is over, the same should not be entertained. The charge of the applicant is that Respondent No.3 has adopted a double standard in the matter of other candidates and Respondent No.4. It has given a lot of



leniency to Respondent No.4 and allowed him to submit the income verification certificate later than the due date. Property qualification or income certificate is one of the conditions for appointment to the post of E.D.B.P.M. On the date of scrutiny Respondent No.4 had no income certificate and his case should have been kept out of zone of consideration. The decision of the Supreme Court in U.P.S.C., U.P., Allahabad and another v. Alapana (1994 SCC (L&S) 742) was cited for the proposition that a person, who wants to apply to a notified post, should satisfy the conditions prescribed as on the last date of receipt of the application. The applicant's claim is that on the last date, the existing income certificate was no certificate at all and should not have been considered.

4. The official Respondents submit that after receipt of the application on 10.11.1995 the documents were sent to the A.S.P., B.F. for verification of their genuineness. He in turn submitted the verification report on 1.1.1996. The applicant has submitted Madhyama pass certificate from the Jagannath Sanskrit University, Sri Vihar, Puri. In his case the verification report of the certificate was received on 22.1.1996. The fresh income certificate received from Respondent No.4 was sent for verification on 18.1.1996 which was received back on 29.1.1996. The verification report in respect of another candidate for the post was received on 1.2.1996. The selection was finalised on 6.2.1996. It is vehemently urged by the learned Senior Standing Counsel that of the three candidates Respondent No.4 was most eligible as he secured higher percentage of marks.

5. I have already made it clear that Respondent No.4 secured more percentage of marks and consequently, he is comparatively better placed as far as marks are concerned. The allegation made about delayed income certificate which was considered cannot be entertained. As a matter of fact, there was an income certificate dated 5.7.1983 wherein the narration was incorrect. This defect was discovered at the time of preliminary screening. Respondent No.4 was directed to file an income certificate in his own name. The learned Senior Standing Counsel was at pains to point out that along with the application the land document in the name of Respondent No.4 was already on record and his title to the land and income therefrom was not an afterthought. There is nothing wrong in the selecting authorities seeking clarification about income or asking for a fresh income certificate giving correct narration. Accordingly Respondent No.4 produced a fresh income certificate in his own name on 9.1.1996. This was sent for verification on 18.1.1996 and was received back on 29.1.1996. The decision of the Supreme Court cited by the applicant has no relevance to the facts of the case. The selecting authorities have not shown any bias or prejudice. In fact, income or property is insisted upon more as a safety or surety for an E.D.B.P.M. It is not an essential requisite for selection. Mainly selection is made, other things remaining equal, on the basis of the highest marks secured. I do not see anything irregular in selecting Respondent No.4.

6. The Original Application is dismissed.

Nayak, P.S.
(N.SAHU) 29/1/96
MEMBER (ADMINISTRATIVE)