

9  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 701 OF 1996  
Cuttack this the 3rd day of October/2000

Sudam Charan Behera

...

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 Central Administrative Tribunal or not ? No.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
G. N. & T. P.

10  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.701 OF 1996  
Cuttack this the 3rd day of October/2000

CORAM:

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

•••

Sudam Charan Behera,  
S/o. Gajendra Behera.  
At/PO : Batira, Via - Rahama  
Dist - Kendrapara

•••

Applicant

By the Advocates

M/s. Pradip Mohanty  
D.N. Mohapatra  
G. Sahoo  
Smt. J. Mohanty

-VERSUS-

1. Union of India represented by the Director General (Post) Dak Bhawan, Ashoka Road, New Delhi
2. Chief Postmaster General Orissa Circle, Bhubaneswar, At/Post: Bhubaneswar, Dist-Khurda
3. Superintendent of Post Offices, Cuttack South Division, At/PO/Dist - Cuttack-753001
4. Sub-Divisional Inspector (Postal) At/PO - Kujanga, Dist - Jagatsinghpur
5. Sri P.C.Dash, S/o. Makar Charan Dash, At - Baripalla, PO: Batira, Via-Rahama Dist - Kendrapara

•••

Respondents

By the Advocates

Mr. A.K. Bose  
Sr. Standing Counsel  
(Res. 1 to 4)

Jdm  
M/s. B. Routray, B. Das,  
Ms. S. Sahoo, B. Farida  
B. Sarangi, S. S. Kanungo  
A. K. Baral (Res. 5)

-----  
O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the selection to the post of E.D.D.A., Batira Branch Office. There is also a prayer for direction to the Chief Post Master General (Res.2) to enquire into the allegation as per Annexure-4 and to verify the records pertaining to the selection

process for the post of E.D.D.A., Batira B.O. The Departmental Respondents have filed their counter opposing the prayer of the applicant. The selected candidate (Respondent No.5) has also filed preliminary counter with copy to other side. Learned counsel appearing for private respondent No.5 was not present when the matter was called nor any request on his behalf was made seeking adjournment. Learned counsel for the applicant and also his Associates were not present when called nor any request was made on their behalf seeking adjournment. As this is a matter of the year 1996 where the pleadings have been completed long ago, it was not possible to drag on the matter indefinitely. We therefore, heard Shri A.K.Bose, learned Sr. Standing Counsel appearing for the Departmental Respondents and also perused the records.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. The admitted position is that for filling up of the regular vacancy in the post of E.D.D.A., Batira Branch Office a selection process was under-taken in which Respondent No.5 was selected. The applicant was another candidate whose candidature was taken into consideration, but he was not selected.   
*Jam* The applicant has challenged the selection of Respondent 5 on two grounds. The first ground urged by him is that the appointing authority in respect of E.D.D.A. is S.D.I.(P) and the concerned S.D.I.(P) Shri R.K.Sahoo was under order of transfer. He handed over the charge of the post on 28.6.1996, but issued appointment order in favour of Respondent No.5 on 3.7.1996. When he was no longer holding the post of S.D.I.(P) he could not have acted as an appointing authority. The second ground urged is that

in the process of selection of Respondent No.5, the S.D.I.(P), who has been impleaded as Respondent No.4 has taken a bribe of Rs.20,000/- and this fact had been brought to the notice of the Chief Post Master General through complaint petition by the Union vide Annexure-4. From the pleadings of the parties we find that the Departmental Respondents have stated that the concerned S.D.I.(P), Kujanga was actually under orders of transfer and he handed over charge to his successor only on 28.6.1996 and issued order to appoint Respondent No.5 on 27.5.1996. This order of appointment is at Annexure-R/5. From this it is clear that at the time of issuing order of appointment on 27.5.1996 under Annexure-R/5, the concerned S.D.I.(P) was verymuch in the office. This contention of the petitioner is, therefore, held to be without any merit and the same is rejected. As regards the question the concerned S.D.I.(P) having taken bribe of Rs.20,000/-, this is a matter which has been brought to the notice of the Chief Post Master General, who will take such action as may be considered proper. So far as selection is concerned, the departmental respondents have pointed out that in the request sent to the Employment Exchange it was not mentioned that preference would be given and/or the post is reserved for any of the reserved categories. The applicant belongs to Scheduled Caste and the selected candidate (Res.5) belongs to general category. Both were considered along with others and from the check sheet it appears that whereas the applicant has secured 249 marks in the H.S.C. the selected candidate (Res.5) has secured 296 marks. Instructions of D.G. (Posts) are clear that amongst the persons who are eligible the candidate securing the highest percentage of marks in the

B

H.S.C.Examination has to be considered the most meritorious and has to be given appointment. In this case the selected candidate (Res.5) has got higher marks than the applicant. Even there were two other candidates, who have got more marks than the petitioner though less than the selected candidate (Res.5). In view of this we hold that Respondent No. 5 has been rightly selected to the post of E.D.D.A., Batira B.O.

For the reasons discussed above, we hold that the applicant has not been able to make out a case for any of the reliefs prayed. The Original Application is held to be without any merit and the same is, therefore, rejected, but without any order as to costs.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE - CHAIRMAN

B.K.SAHOO//