

9

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.108 OF 1998

Cuttack, this the 19th day of Aug, 2003

Ajay Kumar Samantaray

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N.SOM)
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.108 OF 1998
Cuttack, this the 19th day of Aug, 2003

CORAM:

**HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
&
HON'BLE SHRI M.R. MOHANTY, MEMBER(JUDICIAL)**

**Ajay kumar Samantaray, aged about 28 years, S/o. Artabandhu Sahoo,
At/P.o. Bharalo, Via-Rahama, P.S. Tirtol, Dist. Jagatsinghpur.**

.....Applicant

By the Advocate(s)

Mr. Pradipta Mohanty

Vrs.



1. Union of India, represented through the Chief Post Master General Orissa Circle, Bhubaneswar, Dist- Khurda.
2. Superintendent of Post Offices, Cuttack South Division, At/P.o./Dist.Cuttack-753 001.
3. Ranjan Kumar Sethy, Vill-Singiri, P.O. Pahanga, Via-Kaduapada, Dist./P.S. Jagatsinghpur.

Respondent(s)

By the Advocate(s) -

Mr. A.K. Bosc

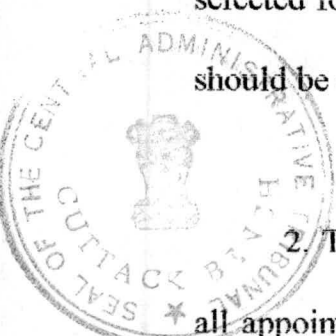
O R D E R

SHRI B.N. SOM, VICE-CHAIRMAN:

Mr. Ajay Kumar Samantaray, has filed this O.A. challenging the selection of Respondent No.3 for appointment to the post of Extra Departmental Branch Post Master (in short, EDBPM), Baralo Branch Office. The applicant's grievance is that although he is a permanent resident

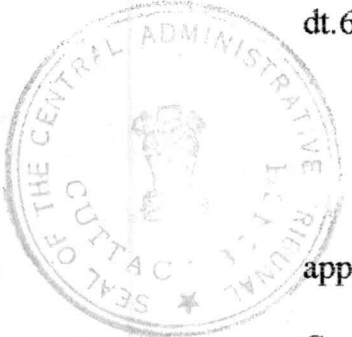
[Handwritten signature]

of the Post Village Baralo, and is having all the requisite qualifications and that his father who was also EDBPM of the said Post Office, had provided the house for the post office. When it fell vacant on superannuation of his father, the departmental Respondents have selected R-3. The applicant had also worked as substitute EDBPM from 1.11.93 to 31.12.93, from 1.1.94 to 31.3.94, from 1.12.95 to 28.5.96 and from 1.1.97 to 31.3.97. In spite of his past experience and qualifications for the post, the departmental Respondents have selected a Scheduled Caste candidate who does not belong to the Post Village and who does not have past experience as EDBPM. He further stated that although the Respondent No.3 has been selected for the post, till date he has not joined and therefore, his candidature should be considered by the departmental Respondents for appointment.



2. The Respondents admitting the facts of the case, have submitted that all appointments to the ED posts are made strictly according to the procedure laid down for the purpose. Therefore, on superannuation of the incumbent of the post w.e.f. 28.11.97, they had notified the vacancy to the local Employment Exchange which could not sponsor any candidate. Thereupon the vacancy was notified through a public advertisement wherein it was mentioned that preference would be given to the candidates belonging to the reserved categories as per rules. Thus notification was issued on 9.1.98. In response to that, 15 candidates had applied, 6 belonging to SC category, one belonging to OBC, and 8 belonging to OC. After processing the candidature

of the 6 SC candidates, they selected one Shri R.K. Sethi who fulfilled all the requisite qualifications and had secured highest marks in the HSC Examination. They have also submitted that although Respondent No. 3 did not belong to the post village, after his selection, he has made arrangement for functioning of the post office at the post village and thereby has satisfied the condition in terms of DG Posts letter No.17-104/93-ED & TRC dt.6.12.93.



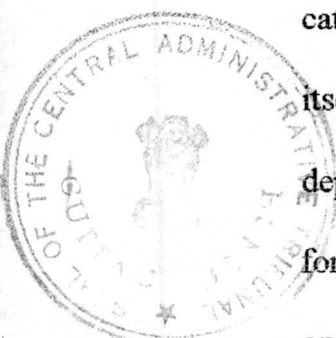
3. We have also heard Shri P.K. Mohanty, Ld. Counsel for the applicant and Shri A.K. Bose, Ld. Sr. Standing Counsel and Mr. T. Rath, Ld. Counsel for Respondent No.3.


4. The thrust of the grievance of the applicant is that although he possessed all the qualifications and had secured highest marks in the HSC Examination, by ignoring his candidature the departmental Respondents have violated the instructions issued by the Respondent No.1. We have carefully examined the said allegation and we find that the allegation made by the applicant is not well founded. The departmental Respondents in their vacancy circular dt.3/24/12/1997 at Annexure- R/4 notified that "preference may be given to reserved categories as per rules in vogue". In their office note, while scrutinising the applications received in response to the advertisement, it was noted that there being short fall of manpower under reserve category and the maximum short fall being under Scheduled Caste category, the selection for the post should be made under that category.

12

13

They have, therefore, stated in their counter that as Scheduled caste candidates were available for selection, preference was given to that category of candidates and the best candidate out of them was selected for the post. The applicant belongs to OC and therefore could not be selected for the post. As the recruitment rules provide for giving preference to reserved category candidate and this condition was included in the vacancy circular itself, we see no infirmity in the selection process conducted by the departmental Respondents. We are also satisfied that the candidate selected for the post is the best among the 6 candidates considered for this purpose and in these circumstances, we see no merit in the O.A. which is accordingly rejected.




(M.R. MOHANTY)
MEMBER (J)


(B.N. SOME)
VICE-CHAIRMAN

CAT/CTC
Kalpesear