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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

PRONOUNCED IN THE OPEN COURT

ORIGINAL APPLICATION NO. 122 OF 1998
Cuttack this the 3rd day of July, 1998

Satya Narayan Mohanty

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

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.122 OF 1998
Cuttack this the 3rd day of July, 1998

CORAM :

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

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Sri Satya Narayan Mohanty
aged about 27 years
S/o.Rama Chandra Mohanty
Station Road
At/Po:Chatrapur
Dist:Ganjam

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Applicant

By the Advocates:

M/s.P.V.Ramdas
P.V.B.Rao

-Versus-

1. Union of India represented
by the Chief Post MasterGeneral
Orissa Circle,
Bhubaneswar-751001
2. Superintendent of Post Offices
Aska Division
Aska-761110, Dist:Ganjam
3. Sub-Divisional Inspector(Postal)
Aska West Sub-Division
Aska-761110, Dist:Ganjam

S/Som

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Respondents

By the Advocate:

Mr.Ashok Mohanty
Sr.Standing Counsel
(Central)

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ORDER

MR.SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to S.D.I.(P) (Res.3) to consider his candidature for selection to the post of Extra Departmental Mail Carrier, Makarjholā B.O. under Kurchuru S.O. along with other applicants and to accept his application submitted to Respondent No.3. According to petitioner he has passed High School Certificate Examination in 1990 and has all the necessary qualifications to be appointed as E.D.M.C. Makarjholā B.O. He has also registered his name in the Employment Exchange.

2. The short facts of this case are that for filling up of the post of E.D.M.C., Makarjholā B.O. the departmental authorities called for names from the Employment Exchange. Even though the applicant has registered his name in the Employment Exchange his name hasnot been sponsored by the Employment Exchange. The petitioner made a direct application to Res.3 along with all relevant documents, but he apprehends that since his name has not been sponsored by the Employment Exchange his candidature is not likely to be consideed by the departmental authorities along with others and that is how he has come up in the present petition with the prayers referred to earlier.

3. On the date of admission of this petition on 6.3.1998, it was ordered, following the order of Hon'ble High Court of Orissa in a similar matter that any

appointment made to the post of E.D.M.C., Makarjhol B.O. shall be subject to the result of the Original Application and pendency of the application shall not be a bar on the departmental authorities to consider the case of the petitioner.

4. The respondents in their counter have pointed out that following the direction of the Tribunal the case of the petitioner was considered along with other candidates. The petitioner has the necessary qualification and had also submitted all the documents in time. It was originally indicated that for this post preference will be given to S.T. candidates, but no S.T. candidate was sponsored by the Employment Exchange and as such the departmental authorities considered the general candidates. It was found that amongst all the candidates the petitioner was the only person who had passed Higher Secondary Examination and accordingly after verifying the genuineness of the documents he was appointed provisionally as E.D.M.C., Makarjhol B.O. on 7.4.1998 pending disposal of this case. The respondents have also filed copy of the check-sheet in respect of above contention. As the petitioner has already been considered and appointed to the post of E.D.M.C., Makarjhol B.O. his prayer in the Original Application has already been met by the departmental authorities. It is submitted by the learned counsel for the petitioner Shri P.V. Ramdas that the appointment of the petitioner is provisional and has been made subject to the result of this application and unless a positive

direction is issued, the appointment of the petitioner cannot be made on a regular basis. The direction to consider the case of the petitioner was issued by the Tribunal basing on the direction of the Hon'ble High Court of Orissa in a similar issue and as the petitioner has been found to be most suitable by the departmental authorities amongst all the candidates including the candidates sponsored by the Employment Exchange, the respondents are directed to convert this appointment to a regular appointment as the petitioner has come through the selection process and has been adjudged most suitable.

5. With the above direction Original Application is disposed of leaving the parties to bear their own costs.

5. At the time of hearing of this application it was submitted by the learned counsel for the petitioner Shri P.V.Ramdas that Hon'ble Supreme Court in the case of Excise Superintendent, Malakpatnam, Krishna District, A.P. v. K.B.N. Visweshwara Rao and others (1996) 6 SCC 216 has directed that employment to public post should not be confined only to candidates sponsored by the Employment Exchange only. In the instant case the departmental authorities should also issue public notification and get the names from the public and then consider the candidature of all those who apply in response to the notice inviting applications from the public along with the persons sponsored by the Employment Exchange. Even though this decision has come in the year 1996 and has also been followed by the

Hon'ble High Court of Orissa in the case of Susanta Kumar Kar v.Registrar(Judicial), Orissa High Court, Cuttack, 83(1997) CLT 335, the postal authorities ^{do not} seem to have taken up amendment of the relevant instructions and in every case they are confining the zone of consideration only to the candidates sponsored by the Employment Exchange. Only in cases where Employment Exchange fails to sponsor required number of names they are going for public notification inviting applications from the public. This practice is not in confirmity with the direction given by the Hon'ble Supreme Court in the case referred to above. In consideration of this it is directed that the postal authorities should take up the steps for amending the relevant rules and instructions strictly complying with the order of the Hon'ble Supreme Court in this regard.

Let a copy of this order be sent to Director General(Posts) New Delhi for appropriate action.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.Sahoo, C.M.

(SOMNATH SOM)
VICE-CHAIRMAN
3.7.18