

CENTRAL ADMINISTRATIVE TRIBUNAL,

**CUTTACK BENCH, CUTTACK.**

ORIGINAL APPLICATION NO. 155 OF 1998  
Cuttack, this the 19~~th~~ day of October, 2000

Sri Pradip Kumar Gouda ....

**Applicant**

Vrs.

Union of India and 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? No.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

( SOMNATH SOM )  
VICE-CHAIRMAN

## VICE-CHANCELLOR.

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 155 OF 1998  
Cuttack, this the 19<sup>th</sup> day of October, 2000

**CORAM:**

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

.....

Sri Pradip Kumar Gouda,  
aged about 23 years, son of  
Sri Arakhita Gouda,  
of village/PO-Palaksadha,  
Via/PS-Gangpur,  
Dist.Ganjam .....

Applicant

Advocate for applicant - Mr.B.K.Panda

Vrs.

1. Union of India, represented by the Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
3. Arun Kumar Sahoo, aged about 27 years,  
son of Raghunath Sahoo,  
Vill-Kantasahi,  
Via-Gangapur,  
Dist.Ganjam....

Respondents

Advocates for respondents - Mr.A.K.Bose  
Sr.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application the petitioner has prayed for quashing the appointment of Arun Kumar Sahoo (respondent no.3) as EDBPM, Palakasandha B.O. and for a direction to respondent no.2 to appoint the applicant to that post. Alternatively he has prayed that respondent no.3 should be appointed in his own village Post Office at Pailipada and the petitioner should be appointed as EDBPM, Palakasandha.

2. The departmental respondents have filed counter opposing the prayers of the applicant. Private respondent no.3 was issued with notice but he did not appear or file counter. For the purpose of considering the OA it is not necessary to go into too many facts of this case.

3. Admittedly for the post of EDBPM, Palakasandha B.O. the applicant and respondent no.3 both applied along with some others and respondent no.3 was appointed to the post.

4. When the matter was called for hearing the learned counsel for the petitioner was absent and no request was made on his behalf seeking adjournment. In view of this, we have heard Shri A.K.Bose, the learned Senior Standing Counsel for the departmental respondents and have also perused the records. The different grounds on which the applicant has prayed for quashing the appointment of respondent no.3 are discussed below.

5. The first ground is that the applicant belongs to the post village Palakasandha whereas respondent no.3 belongs to village Kantasahi under Pailipada Post Office. The applicant has stated that in the notice inviting applications it was mentioned that persons belonging to the post village, i.e., village Palakasandha should apply and as respondent no.3 does not belong to this village, he should not have been selected. This contention is without any merit because in the notice inviting applications enclosed by the applicant himself to his OA at Annexure-1 it is clearly mentioned that the selected person should take up residence in the post village before appointment. There was no condition that only persons belonging to the post village need apply and would be considered. Such a condition would also have been illegal. The departmental rules and instructions only provide that the selected candidate, who may belong to any other village, should be prepared to take up residence in the post village and provide rent free

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accommodation for the post office. In view of the above, this contention of the petitioner is held to be without any merit and is rejected.

6. The second contention of the petitioner is that he belongs to Gouda community which is recognised as a socially and educationally backward class by the State Government as per certificate produced at Annexure-3. Accordingly, it has been urged that the applicant should have been given preference over respondent no.3. The departmental respondents have pointed out and it is borne out by Annexure-1 filed by the applicant that in the notice it was mentioned that candidates belonging to ST community will be given preference and in case no ST candidate is available, selection will be made from amongst other candidates on merit as per rules. The departmental respondents in their counter have stated that in response to the notice at Annexure-1 10 candidates applied for the post. Amongst them there was no ST candidate and therefore the post had to be filled up by a general candidate as it had not been indicated in the notice inviting applications that if ST candidates are not available OBC candidates will be given preference. This contention of the applicant is also without any merit and is rejected.

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7. The departmental respondents have pointed out in their counter and this has not been denied by the applicant by filing any rejoinder that out of 10 candidates who applied for the post, four candidates were found eligible for the post. Respondent no.3 had secured the highest percentage of marks in HSC Examination and accordingly as per

the rules he was selected. The departmental respondents have enclosed the check-list from which it appears that respondent no.3 has got 59.56% of marks. The applicant, on the other hand, has got 35.2% of marks. The departmental instructions provide that amongst the eligible candidates the person who has secured the highest percentage of marks is to be selected and accordingly respondent no.3 has been rightly selected for the post.

8. The departmental respondents have also pointed out that the candidature of the applicant, who in any case got low percentage of marks, was rejected because along with his application he had not filed copies of land records showing land recorded in his name. The applicant in his petition has made no averment that he had submitted the land records. From Annexure-1 it is clear that intending candidates were asked to enclose attested copies of different documents along with their applications and one of these documents is land record in the name of the candidate. It was also mentioned that the applications which are not properly filled in and where the required documents have not been submitted, would be liable to be rejected. In consideration of the above, we hold that the prayer of the applicant to quash the selection of respondent no.3 is without any merit. There is also no case for directing the departmental authorities to appoint the applicant to the post of EDBPM, Palakasandha B.O. This prayer is accordingly rejected. The alternative prayer is for giving appointment to respondent as EDBPM, Pailipada and to appoint the applicant to the post of EDBPM, Palakasandha. This prayer is without any merit because for filling up of the post of EDBPM, Pailipada, separate

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selection procedure will have to be undertaken and respondent no.3 who has been selected for the post of EDBPM, Palakasandha cannot be asked to join as EDBPM, Pailipada and in his place the applicant cannot be appointed as EDBPM, Palakasandha. This prayer is also held to be without any merit and is rejected.

9. In the result, therefore, the Original Application is held to be without any merit and the same is rejected. No costs.

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(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)

VICE-CHAIRMAN

19/10/2000