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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 163 OF 1998  
Cuttack this the 5th day of May, 2000

Dwarikanath Barik ... 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)  
VICE-CHAIRMAN  
25/5/00

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No. 163 OF 1998  
Cuttack this the 5th day of May, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE SHRI G. NARASIMHAM, MEMBER (JUDICIAL)  
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Dwarikanath Barik  
aged about 42 years  
S/o. Late Harekrushna Barik  
Purunapari, PO: Lendura  
Dist: Cuttack

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By the Advocates

Applicant

Mr. Akshaya Kumar Mishra

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-VERSUS-

1. Union of India represented through it's Secretary, Department of Posts, Ministry of Communications, Government of India, New Delhi
2. Post Master General, Orissa Circle, Orissa, Bhubaneswar, Dist: Khurda
3. Superintendent of Post Offices Cuttack Northern Division, At/PO/Dist: Cuttack
4. Bharat Chandra Behera  
S/o. Late Krushna Behera  
Lendura Bhagabanpur  
Dist: Cuttack

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By the Advocates

Respondents

Mr. B.K. Nayak,  
Addl. Standing Counsel  
(Res. 1 to 3)

Mr. K.C. Kanungo &  
Mr. S. Behera  
(Res. 4)

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O R D E R

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MR. SOMNATH SOM, VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order of appointment of Respondent 4 to the post of Extra Departmental Branch Post Master, Lendura <sup>Bhagabanpur</sup> B.O. and for further direction to Respondent 3 to consider the case of the petitioner for the said post.

2. The departmental respondents have filed their counter. Private Respondent 4 has also filed his counter opposing the prayer of the applicant.

3. For the purpose deciding this Original Application it is not necessary to go into too many facts of this case. The departmental respondents in their counter have stated that because of certain alleged irregularities in appointment of Res.4, they have already cancelled the appointment of Res.4. Therefore, it appears that the first prayer of the applicant for cancellation of appointment of Res.4 has already been met and this prayer has become infructuous. It has been submitted by the learned counsel for Res.4 that he had been legally and correctly appointed to the post of E.D.B.P.M., Lendura <sup>Bhagabanpur</sup> and before the order of appointment show cause notice was issued to him and he has made various submissions with regard to giving preference to persons belonging to Scheduled Caste. It is necessary to note that the Res. 4 belongs to Scheduled Caste. Learned Addl. Standing Counsel Shri B.K.Nayak submitted that for filling up of the post of E.D.B.P.M., Lendura a requisition was sent to the Employment Exchange to sponsor names within 30 days, but the Employment Exchange, at the first instance sponsored names of 10 candidates within one month and again by another communication cancelling the

*S. Som*

earlier sponsored list, sponsored 21 names, three months after the Employment Exchange was asked to sponsor the names. In view of this names sponsored by the Employment Exchange were not taken into consideration and public notice was issued. In the public notice there was no mention that the post is reserved for Scheduled Caste or that preference would be given to S.C. candidate. Only one S.C. candidate in response to public notice, Shri B.C. Behera (Res. 4) applied and as there was requirement of at least three S.C. candidates to be considered, selection of Respondent No. 4 is stated to be not in accordance with rules, according to learned Addl. Standing Counsel. For the purpose of present application it is not necessary to decide about the legality or otherwise of the action of the respondents in cancelling the appointment of Res. 4. The prayer of the applicant is for cancelling appointment of Res. 4 to the post of E.D.B.P.M., Lendupa Bhagabanpur and the departmental respondents have already done it. In view of this, this prayer has become infructuous. In case Res. 4 feels that his appointment has been cancelled illegally he is to agitate the matter separately. The second prayer of the applicant is for direction to departmental respondents to consider his case. With the cancellation of appointment of Res. 4 the departmental authorities have to go in for fresh selection and in terms of the fresh selection candidature of the applicant, if admissible, will have to be considered. No direction can be issued to departmental authorities at this stage to consider the candidature of the applicant for any future selection.

The Original Application is disposed of in terms of observations made above, but without any order as to costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

(SOMNATH SOM)  
VICE-CHAIRMAN

B.K.SAHOO//