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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 226 OF 1998

Cuttack, this the 5th day of October, 1999

Md. Sk.Sikandar Alam 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

5.10.99

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CORAM:

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

....

1. Md.Sk.Sikandar Alam,
son of Sk.S.K.Ali, H-III, Sector-15,
Rourkela-3, Dist.Sundargarh.
2. Prasanta Kumar Rout, s/o Jadumani Rout, Qrs.No.C¹/14
Sector-4, Rourkela, District-Sundargarh

..... Applicants

Advocates for applicants - M/s B.K.Kar
M.Acharya

Vrs.

1. Union of India, represented through
its Secretary, Department of Communication,
New Delhi-110 001.
2. Chief Post Master General,Orissa, At/PO-Bhubaneswar,
District-Khurda.
3. Senior Superintendent of Post Offices,
Sundargarh Division, District-Sundargarh.
4. Post Master General, Sambalpur, At/PO/District-Sambalpur.

..... Respondents

Advocate for respondents - Mr.B.Dash.

ORDER

SOMNATH SOM, VICE-CHAIRMAN

S. Som
In this Application under Section 19 of Administrative
Tribunals Act, 1985, the two applicants have prayed for a
direction to the respondents to promote them to the post
of Postal Assistant or to any other Clerical post in

consideration of the departmental circulars and length of their service.

2. The case of applicant nos. 1 and 2 is that they have passed I.A. and B.Com. respectively and were appointed as E.D.Packer in 1983 and 1989 respectively on ad hoc basis and were absorbed later as regular E.D.Packer. In April 1990 applications were invited through open advertisement from inservice candidates as well as from open market for the posts of Postal Assistant and the petitioners applied for the same. Rules provide that Extra-Departmental Agents who are matriculates or possess equivalent qualification and have put in one year of service and within 40 years of age are eligible for recruitment. It is stated that in circular dated 3.8.1983 at Annexure-1 length of service was taken as a criterion for selection. Senior Superintendent of Post Offices, Sundargarh Division (respondent no.3) invited applications for the post of Postal Assistant in the years 1993 to 1997. In 1993 there were six vacancies, in 1994 there were five vacancies and in 1997 there was only one vacancy. Even though the petitioners applied their cases were not considered. The departmental authorities in their letter dated 3.3.1979 at Annexure-2 had decided to award bonus marks to those who have passed Pre-University and Higher Secondary Examination, but the applicants were not given the same benefit. It is also stated that instructions provide that in the outsider quota of vacancies EDAs should be given first preference, but the same was not given. The applicants have stated that one Sidhartha Kumar Panda who had secured 59.3% marks has been selected as Postal

Assistant as a fresh candidate though the applicants, who had secured 41% and 58% marks, have not been selected. That is how the applicants have come up in this petition with the prayers referred to earlier.

3. Before proceeding further, for the purpose of taking note of the averments made by the respondents in their counter, it has to be noted that applicant no.2 Prasanta Kumar Rout has filed a separate O.A.No.761/94 challenging his non-selection for the year 1994 and we have in a separate Order delivered today, disposed of that O.A. Therefore, in the present application the grievance of petitioner no.2 for his non-selection for the year 1994 is not being considered. We also must deprecate in the action of applicant no.2 in filing two separate O.As. ^{J. J. M.} in which prayers to some extent overlap.

4. Respondents in their counter have opposed the prayer of the applicant. The respondents have pointed out that applicant no.2 has challenged selection of fresh candidates to the cadre of Postal Assistants in OA No.761 of 1994 which is still pending and therefore on the same grounds the present application is not maintainable. The respondents have stated that applicant no.1 is working as Extra-Departmental Telegram Messenger at Bondonuda Sub-Post Office and applicant no.2 is working as E.D.Packer, Daily Market Sub-Office, Rourkela. It has been stated by the respondents that educational qualification for recruitment of E.D.Aagents to the cadre of Postal Assistants against outsider quota has been enhanced from Matriculation or its equivalent to 10+2 Standard pass or its equivalent in circular dated 14.4.1988 which is at Annexure-1. The

J. J. M.

respondents have also stated that the case of the applicants has to be considered for the post of Postal Assistant in case they apply for the same and they otherwise fulfil the conditions. The respondents have stated that applicant no.1 has not applied for the post of Postal Assistant for the years 1993 to 1996 and therefore there is no question of ignoring his case for selection illegally. The respondents have further stated that the selection is based on merit which is determined by percentage of marks secured in +2 Examination. For the departmental candidates the qualifying marks are 10% less than the marks of last selected candidate. It is stated by the respondents that as per the selection list the marks of the last candidate in the outsider quota for are 77.22% and therefore/the E.D.Agent the marks come to 10% less, i.e., 67.22%. But the applicants have not secured such percentage of marks. As regards the case of Sidhartha Kumar Panda referred to by the applicants who had allegedly secured 59.3% and has been selected as Postal Assistant in Sundargarh Postal Division, the respondents have stated that no such person named Sidhartha Kumar Panda has ever been selected in Sundargarh Division as Postal Assistant. On the above grounds, the respondents have opposed the prayer of the applicants.

5. When this matter was called for hearing, the learned counsel for the petitioner was absent nor was any request made on his behalf seeking adjournment. We have therefore heard Shri B.Dash, the learned Additional Standing Counsel for the respondents and have perused the records.

J.Jam

6. There are two applicants in this case.

So far as applicant no.1 Md.Sk.Sikandar Alam is concerned, the respondents have stated in paragraph 8 of the counter that he has not applied for the post of Postal Assistant for the years 1993 to 1996. This has not been denied by the applicants by filing any rejoinder. In view of this applicant no.1 not having applied for the above years cannot hope to get the relief asked for by him in this O.A. His prayer is therefore summarily rejected.

7. As regards applicant no.2 we have already stated that in another OA No.761/94 disposed of by a separate Order delivered today, he has challenged his non-selection for the year 1994. For the other years applicant no.2 has not mentioned any details as to which specific years he had applied and what were his marks compared to the marks of the candidates selected for those years. The respondents on the other hand have stated that in a particular selection the marks of the last selected fresh candidate were 77.22% and for the ED Agents the qualifying marks would have come to 67.22%, i.e., 10% less. But applicant no.2 has got less marks and therefore he has not been selected.

8. In consideration of the above, we hold that the applicants are not entitled to the relief asked for by them. The Application is held to be without any merit and is rejected but without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN 0.99