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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 236 OF 1998
Cuttack this the 18th day of Sept./2000

Biswanath Samalo

...

Applicant(s)

-VERSUS-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 75.
2. Whether it be circulated to all the Benches of the CA - Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
18.9.2000

18.9.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 236 OF 1998
Cuttack this the 18th day of Sept./2000

CORAM:

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

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Sri Biswanath Samalo
aged about 25 years,
Son of Sri Simadri Samalo
Vill-Badahansa,
PO: G. Rampa,
Via/PS: Garabandha
Dist : Gajapati
Pin - 761215

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Applicant

By the Advocates

M/s.S.P.Mohanty
P.K.Lenka

-VERSUS-

1. Union of India represented through the Secretary, Department of Posts, Dak Bhawan, New Delhi
2. Chief Post Master General, Orissa Circle, Bhubaneswar
3. Post Master General Berhampur Region, Berhampur
4. Senior Superintendent of Post Offices, Berhampur (Ganjam) Division, Dist - Ganjam
5. P.Hemachal Rao, son of P.Jagarnaikulu
Vill/Po: G.Rampa, Via/PS:Garabandha
Dist - Gajapati, PIN 761215

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Respondents

By the Advocates

Mr.A.K.Bose,
Sr.Standing Counsel
(Res. 1 to 4)
Mr.C.A.Rao
(Res. 5)

MR.G.NARASIMHAM, MEMBER (JUDICIAL): In this application challenging selection and appointment of Respondent No.5 to the post of Extra Departmental Branch Post Master, G. Rampa Branch Office under Paralakhemundi Head Office, the facts not in controversy are that this post of E.D.B.P.M. became vacant on 2.3.1998 on the retirement of the previous E.D.B.P.M. on superannuation. Ultimately six candidates including applicant and Respondent No.5 had applied for the post in response to public notification dated 10.2.1998 fixing the last date as 3.3.1998.

2. The case of the applicant is that without sending requisition to the employment exchange, at first a public notification was issued on 15.12.1997 inviting applications. Thereafter on the representation of some candidates registered in the employment exchange, another notification was issued on 10.02.1998 (Annexure-3). In response to this notification applicant along with Respondent No.5 and one K.Bhaskar Rao had applied for the post. Applicant is a Scheduled Caste and better qualified than Res.5 who is a general candidate without knowing the ~~any~~ ^{local} language of ~~the~~ ^{any} area which is the most essential qualification for appointment to the post. Respondent No.5 did not submit two character certificates required to be submitted along with application. Thus the selection of Res.5 is contrary to law.

3. The Department in their counter take the stand that anticipating the superannuation vacancy on 2.3.1998, the appointing authority sent requisition to the Junior Employment Officer, Paralakhemundi on 4.11.1997 for sponsoring the names of eligible candidates within a period of 30 days. But the

employment exchange did not sponsor any names within the stipulated time. Hence public notice dated 15.12.1997 under Annexure-1 was issued. In response to this notification only four candidates including the applicant had submitted applications. But it was found that these applications were incomplete and not supported by required documents. Hence another public notification dated 10.2.1998 fixing the last date as 3.3.1998 was issued. This time six candidates, including applicant and Res.5 had submitted their applications. The applicant had not submitted any income certificate showing income from land in his name along with application. Even during field enquiry conducted by S.D.I.(P) on 31.3.1998, he could not submit any such certificate. He also gave a statement in writing on 31.3.1998 expressing inability to provide rent free accommodation in the post village for functioning of the post office, which is a condition for selection to the post in question. The post being not reserved for any particular community, question of applicant being preferred for the post because of his caste would not arise. Though Res.5 had not submitted the two character certificates, he had submitted the same vide Annexure-R/4 series during field enquiry on 31.3.1998. There is also no restriction under the departmental rules for ^{other} a candidate to know language of the area to be appointed as E.D.B.P.M. Besides the disqualifications of the applicant pleaded above, Res. 5 was preferred than the applicant, because the latter had passed S.C.S. Examination in Compartmental Division, while Respondent No.5 passed the same Examination in 3rd Division in first chance.

4. Respondent No.5 filed separate counter defending ^{his}

the selection and appointment to the post of E.D.B.P.M., G.Rampa B.O. Further, according to him, in the Post-village under Garabandha P.S. most of the residents are Telgu knowing persons.

5. No rejoinder has been filed by the applicant.

6. We have heard Shri S.P.Mohanty, learned counsel for the applicant, Shri A.K.Bose, learned Sr.Standing Counsel for the departmental respondents and Shri C.A.Rao, learned counsel for Respondent No.5. Also perused the records, as well as the Selection File produced by Shri Bose.

7. The Selection File reveals that in letter No.268 dated 4.11.1997, Senior Superintendent of Post Offices, Berhampur Division had issued requisition to the Junior Employment Officer, Paralkhemundi notifying the vacancy and for sponsoring the names of eligible candidates within 30 days. Thereafter on 15.12.1997 a public notification was issued inviting applications. So the case of the applicant that no requisition was ever sent to the employment exchange is not correct. The specific case in the counter that employment exchange did not respond within time has not been countered by the applicant through any rejoinder. Ultimately the fact remains that in response to 2nd notification, six candidates including applicant and Respondent No.5 had applied for the post. The applicant as well as Respondent No.5 had passed S.C.S. Examination equivalent to Matriculation from Board of Secondary Education, Andhra Pradesh. While the applicant passed that examination in compartmental, Respondent No.5 passed the very same examination in first chance. Each of them had secured 212 marks out of total marks 500. Viewed from this angle, we agree with the contention of the Department that Respondent No.5 is more meritorious than the applicant.

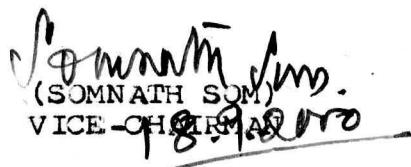
8. It is true that Respondent No.5 had not submitted two character certificates as prescribed in the Form along with application. But these certificates were submitted by him during field enquiry conducted by the S.D.I.(P) on 31.3.1998. Even Annexure-R/3, written application of the applicant submitted before the S.D.I.(P) on 31.3.1998 reveals that on that day he too did not submit the required character certificates along with his application for appointment. Further, through this application under Annexure-R/3 the applicant expressed inability to provide a rent free accommodation for ~~the~~ running of the Post Office. Be that as it may, since the character certificates were submitted by Respondent No.5 before the actual selection process was over, his selection on that ground alone cannot be faulted.

9. As per the departmental recruitment rules, a candidate must be in a position to offer rent free accommodation in the post village for running the Branch Office. Admittedly the applicant expressed inability to provide such accommodation through his application submitted on 31.3.1998 under Annexure-R/3. Hence he is ineligible for this post on this ground also. Moreover, he has not attached any document to meet ~~the required~~ another essential requirement for the post, i.e. adequate means of livelihood, which fact has been specifically pleaded in the counter of the Department and not denied by the applicant through any rejoinder. In other words, he is not a man having adequate means of livelihood and this itself is a disqualification for this post. However, Respondent No.5 fulfills this requirement.

10. It is true that the averment in the application that Respondent 5 does not know the language 'Oriya' has not been

refuted in the counters. But the applicant has not brought to our notice any rule/instruction that knowledge of Oriya is one of the most essential requirements for appointment to the post of E.D.B.P.M. On the other hand specific stand of the Department is that there is no such rule/instruction to that effect. As earlier stated, Respondent No.5 in his counter indicated that in the Post-village almost all the residents are acquainted with Telgu language. The post-village G.Rampa is under Garabandha P.S. We can take judicial notice that this village is a border village adjoining the State of Andhra Pradesh. Hence plea of Respondent No.5 that residents of the village are acquainted with Telgu language cannot be brushed aside. For manning a Branch Office, knowledge of one of the languages widely prevalent in the area would be enough. In this respect Respondent No.5, whose mother tongue is Telgu will have no difficulty at all for managing the Post Office in the Post-village and lack of knowledge in Oriya cannot be a disqualification for his appointment to the post of E.D.B.P.M.

II. In the result, we do not see any merit in this Application which is accordingly dismissed leaving the parties to bear their own costs.


 (SOMNATH S. S.)
 VICE-CHAIRMAN

18-1-2
 (G. NARASIMHAM)
 MEMBER (JUDICIAL)

B.K.SAHOO//