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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.247 OF 1998.

Cuttack, this the 20th day of September, 1999.

Bharat Chandra Patra Applicant

v e r s u s

Union of India & 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.

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(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
V ICE-CHAIRMAN
20.9.99

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND

HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

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Bharat Chandra Patra, Village/P.O.-Jyotipur,
Via-Turumunga, District:-Keonjhar. ... Applicant

Advocate for applicant- Mr.D.P.Dhalsamant

Versus

1. Union of India represented through
Chief Postmaster General, Orissa Circle,
Bhubaneswar-751001.
2. Postmaster General,
Sambalpur Region,
Sambalpur-768001.
3. Superintendent of Post Offices,
Keonjhar Division,
Keonjhar-758001.
4. Shri Radheswar Mishra,
Village/P.O.-Jyotipur, Via-Turumunga,
District:-Keonjhar. ... Respondents

Advocate for respondents- Mr.B.K.Nayak, A.C.SC.
(For R.1 to 3)

Mr.T.Rath, Advocate
(For R.4)

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this application under section 19 of
Administrative Tribunal Act, 1985, the applicant has prayed
for quashing the appointment of Radheshyam Mishra, (Wrongly
mentioned by the applicant as Radheswar Mishra) to the post
of EDBPM, Jyotipur and for a direction to the Departmental

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respondents to process the selection according to rules and give preference to SC/ST candidates.

2. The applicant's case is that on being asked by Superintendent of Post Offices, Keonjhar Division (Respondents No.3) he applied for the post, but ignoring his candidature respondent No.4 has been appointed to the post. The applicant has stated that in Keonjhar Division there is shortfall in recruitment of SC/ST candidates to E.D. post and therefore under the rules he should have been given preference as he belongs to S.C. community.

3. The private respondent No.4 was issued with notice but did not appear nor filed counter.

4. The Departmental respondents in their counter have stated that for the post of EDBPM, Jyotipur the Junior Employment Exchange Office, Champua sponsored nineteen candidates out of which four candidates including the ~~applicant~~ applicant and respondent No.4 submitted detailed application in prescribed form with necessary documentation. The four candidates were considered. Respondent No.4 had passed Matriculation in second division getting 51.13% of marks whereas the applicant has passed Matriculation in third division getting 40.80% of marks. The respondents have stated that accordingly respondent No.4 was selected. On the question of representation of SC/ST candidates, respondents have stated that in the concerned division there is no shortfall in representation of ST candidates.

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The respondents have admitted that there is shortfall in SC candidates. They have also stated that according to Departmental instructions of the vacancies in a year not more than 50% should be selected from the reserved categories. They have further stated that in the year 1998 till July, out of 8 selections four SC candidates have been selected and three OBC candidates have been selected. Therefore no preference has been given in this selection to SC community. On the above ground respondents have opposed the prayer of the applicant.

5. We have heard Shri D.P.Dhalsamant, Learned counsel for the petitioner, Shri B.K.Nayak, Learned Additional standing counsel for the Departmental respondents and Shri T.Rath, Learned Counsel for respondent No.4 and have perused the records.

6. It has been submitted by the learned counsel for the petitioner that Departmental respondents have admitted in their counter that his candidature was not considered because land purchased by him was from one of the owners of a joint property. It has been submitted that rejection of candidature of the applicant on above ground has been illegal. Joint owner of a property has a defined interest in coparcenary property and he is entitled to sell his interest in such property. It cannot therefore be said that by such purchase the applicant has not got any right in that property. But even then in this case the respondent No.4 has got higher marks than the applicant in the Matriculation examination and therefore according to Departmental instructions the person

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getting higher marks has been selected. Therefore no mistake has been committed in this regard.

7. The second contention of the learned counsel for the applicant is that respondents have admitted that there is shortfall in representation of SC candidates. But even then preference has not given to the applicant, even though he belongs to SC community. We have considered the above submission carefully. The applicant has not mentioned in his original application that at the time of notifying the vacancy to the Employment Exchange it was indicated that preference would be given to SC candidates. There is no instruction that if there is shortfall in representation of SC/ST communities then all vacancies are to be filled up by SC/ST candidates till the shortfall is made good. The Departmental respondents have stated that under instructions of the vacancies in a year 50 % can be filled up by reserved category. As a matter of fact out of 8 vacancies filled up upto July, 1998 four vacancies have been filled up by SC candidates and three by OBC candidates. In view of this it was not obligatory on the part of the Department to give preference to a SC candidate in this selection, moreso when it was not so indicated to the Employment Exchange. This contention is therefore held to without any merit and is rejected.

8. In the result therefore, we hold that the application is without any merit and the same is rejected but without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

SOMNATH SOM
VICE-CHAIRMAN
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