

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 270 of 1998.  
Cuttack, this the 19th day of April, 2000.

NRUSINGHA CHARAN SINGH.

....

APPLICANT.

VRS.

UNION OF INDIA & ORS.

...

RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? 45-
2. Whether it be circulated to all the Benches of  
the Central Administrative Tribunal or not? 20-

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
17.4.2000

*G. Narasimham*  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)  
19.4.2000

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 270 OF 1998.

Cuttack, this the 19<sup>th</sup> day of April, 2000

**C O R A M:**

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

..

MRUSINGHA CHARAN SINGH,  
Aged about 45 years,  
Son of Late Bhikari Charan Singh,  
At. Josupur, P.O. Mahanga, Via. Salipur,  
Dist. Cuttack employed in Extra Departmental,  
Class- IV posts of Mahanga Sub Post Office,  
At/Po/Ps Mahanga, Dist. Cuttack.

: Applicant.

By legal practitioner: Mr. Laxmidhar Dash, Advocate

-Vrs.

1. Union of India represented by the Secretary,  
Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Orissa Circle,  
Bhubaneswar, Dist. Khurda.
3. Superintendent of Post Offices, Northern Division,  
Cuttack.
4. Sub Divisional Inspector of Post Offices,  
Salipur Division, Salipur, Dist. Cuttack.
5. Sub Postmaster, Mahanga, sub post office,  
At/Po/Ps. Mahanga, Dist. Cuttack.

: Respondents.

By legal practitioner: Mr. A.K. Bose,  
Senior Standing Counsel (Central).

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL):

In this application challenging the notification dated 28.3.1998 issued by the SDP, Salipur sub-division inviting applications to fillup the vacant post of EDMC, Mahanga BO in account with Kendrapara HO mentioned that the post is reserved for ST Community (Annexure-2) and the corrigendum dated 30.3.1998 (Annexure-3) to the effect that the post is reserved for ST candidates and if no ST candidates are available OBC candidates will be considered for appointment to that post, the case of the applicant is that since 1979 upto 1997 he was serving in Mahanga SO in different capacities on daily wage basis. He was not given further extension in the year 1998 as the post under Annexures-2 and 3 being managed by a general category employee became vacant due to resignation.

According to applicant reserving a single post for a particular community is not permissible under law and in view of his long experience, he has to be appointed to the post in question.

2. Respondents in their counter deny the case of applicant that he was appointed by the Department at any time. Their case is that during 1983, i.e. from 18.6.1983 till 17.7.1983 and again from 5.3.1997 to 8.3.1997 the applicant had worked as a substitute in place of Shri B.D. Mukharjee, ED Packer, Mahanga as per the arrangement provided by Mr. Mukharjee itself, and as such his substitute experience can not be taken into account and he has not claimed for this post only on the basis of this substitute

experience. In regard to the reservation, the stand of the Department is that the post is not a single cadre post. In the concerned recruiting postal unit, there has been short fall in the percentage of ST candidates and OBC candidates without any shortfall in the percentage of SC candidates. Hence the post was reserved for ST candidate and in the absence of ST candidate, preference was ordered to be given to OBC candidate. In fact, in response to the notifications under Annexures-2 & 3 ten applications have been received and out of these ten applications only one application belonging to ST community was there. Hence selection was made from OBC candidates. Three OBC candidates applied for the post and ultimately one Krushna Ch. Sahu was appointed by order dated 28.5.1998.

3. No rejoinder has been filed.
4. Before appointment of Shri Sahu, this Bench by order dated 20.5.1998 made it clear that appointment in pursuant to notification at Annexure-2 shall be subject to the final result of this O.A. and this condition should be specifically mentioned in the order of appointment.
5. We have heard only Mr. A.K. Bose learned Sr. Standing Counsel in the absence of any counsel for the applicant and have also perused the records.
6. As already stated no rejoinder has been filed refuting the stand of the Department that the applicant has served as EDMC only on substitute basis for few days once in 1983 and the other in 1997 as arranged by the then incumbent, during his absence and the Department have not appointed him as such. Barring making bald averments that several occasions he was appointed as EDA from 1979 to



1997, applicant could not furnish any facts or figures in this regard. We are, therefore, not inclined to accept his statement that he was appointed by the Department on provisional basis as EDAs. Legal position is well settled that experience as a substitute EDA will not give rise to any extra consideration in considering his case for giving regular appointment to any EDAs.

But there is shortfall in the percentage of ST and OBC communities in that particular postal unit has not been denied. The concerned post is definitely not a single cadre post. As well as vacancies in the posts of like nature available in that recruiting Postal unit have to be filled up by taking into consideration the percentage of shortfall of reserved community. We therefore, do not see any illegality in these two notifications under Annexures-2 and 3.

7. Regarding the Locus standi of the applicant, though it has not been specifically raised during hearing but the same can not be over-ruled without being considered. As per the prevailing recruitment rules an ED Agent bearing the EDEPM or EDSPM, must have passed at least 8th standard to be eligible to, <sup>be</sup> considered for appointment as an ED Agent. Nowhere in the application, there is mention that the applicant has at least passed 8th standard. In other words, it can be presumed that he has no minimum educational eligibility even to be considered for <sup>regular</sup> appointment as an ED Agent. Hence this being the position he is considered as a stranger to challenge the vires of the notification under Annexures-2 & 3, because he does not come into the definition of party

aggrieved under the provisions of AT Act. His prayer for quashing Annexures-2 and 3 is in the nature of a public interest litigation and public interest litigation by a stranger i.e. not a person aggrieved can not be entertained by an Administrative Tribunal as has been held by the Hon'ble Apex Court in the case of Dr. Duryodhan Sahu's case reported in ATC 1998(3) 1365.

8. In the result, we do not see any merit in this application which is accordingly rejected. No costs.

*Somnath Som*  
(SOMNATH SOM)  
V ICE-CHAIRMAN

*18-4-2000*  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

KNM/CM.