

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 331 OF 1998
Cuttack, this the 18th day of November, 1999

Madan Sundar Behera 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
(SOMNATH SOM)
VICE-CHASIRMAN
18.11.99

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CORAM:

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

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Madan Sundar Behera, aged about 23 years, son of
Satyabadi Behera, At/PO- Rebana Nuagaon, Via-Brahmagiri,
District-Puri
Applicant

Advocates for applicant-M/s B.S.Tripathy
M.K.Rath

Vrs.

1. Union of India, represented through its Chief Post Master General, Orissa Circle, At/PO-Bhubaneswar, District-Khurda.
2. Superintendent of Post Offices, Puri Sub Division, At/PO-Puri, District-Puri.
3. Mansingh Baral, son of Jagannath Baral, At/PO-Rebana Nuagaon, Via-Bhubaneswar, District-Puri.

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Respondents
Advocates for respondents - Mr.A.K.Bose,
Sr.C.G.S.C. for
R 1 & 2; and
M/s K.P.Mishra, S.Rath,
B.S.Misra &
J.K.Khandayatray.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the appointment of respondent no.3 as EDBPM, Rebana Nuagaon B.O. and for a direction to Superintendent of Post Offices, Puri Division (respondent no.2) to give appointment to the applicant to the above post.

2. Facts of this case, according to the petitioner, are that the post of EDBPM, Rebana Nuagaon fell vacant as the regular incumbent was put off duty. For filling up of the post during the put-off duty

period, respondent no.2 called for applications from intending candidates through public notice. The applicant and three others applied for the post. The applicant is a matriculate and belongs to SC community. His documents were also called for verification. It is stated by the applicant that he had secured 293 marks in the Matriculation Examination. But ignoring the same respondent no.2 has given appointment to respondent no.3. In the context of the above, the applicant has come up with the prayers referred to earlier.

3. Respondent no.3, the selected candidate was issued with notice. He appeared through his learned counsel but did not file counter.

4. The departmental respondents have indicated in their counter that selection and appointment of respondent no.3 as EDBPM, Rebana Nuagaon, were reviewed and several irregularities were noticed. It is stated that even though there was shortfall in the representation in respect of SC, ST and OBC communities, but the particular community to which preference was to be given was not notified. Even though there was shortfall of representation of SC candidate and there was one eligible SC candidate, no preference was given to him. But respondent no.3 who did not belong to SC community was given appointment. It is also stated that according to Director General, Posts' letter dated 22.4.1994, the Chief Post Master General/Regional Post Master General is powered to allocate the different category of handicapped persons to be appointed and respondent no.2, Superintendent of Post Offices, Puri Division was not empowered to make appointment of physically handicapped persons independently before

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allocation of Chief Post Master General. The departmental respondents have stated that respondent no.2 has made selection and appointment in favour of respondent no.3 in contravention of existing rules and instructions, and there is justification for passing orders to rectify the erroneous appointment order. The departmental respondents have stated that as the matter is under judicial scrutiny and the order is yet to be passed, no further action has been taken in this regard by the departmental authorities.

5. We have heard Shri B.S.Tripathy, the learned counsel for the petitioner; Shri A.K.Bose, the learned Senior Standing Counsel for the departmental respondents; and Shri K.P.Mishra, the learned counsel for the private respondent no.3. We have also perused the records. The learned counsel for respondent no.3 has filed written note of submission with copy to the other side which has also been taken note of.

6. From the above pleadings of the parties, it is seen that the departmental authorities themselves have found what they have described as irregularities in the selection and appointment of respondent no.3 and they are proposing to take further action in the matter which has not been done because of the pendency of this O.A. In view of this, it is not necessary for us to examine the various submissions made by the learned counsel for the petitioner assailing the selection and appointment of respondent no.3 as EDBPM, Rebana Nuagaon, when the same matter is under consideration of the departmental authorities. In view of this, we dispose of this OA with a direction to the

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departmental authorities to take such further action as they may deem proper in the matter of selection of respondent no.3. Such action should be taken strictly in accordance with rules and instructions. We also make it clear that we express no opinion with regard to irregularities or otherwise in the selection and appointment of respondent no.3. Such action which the departmental authorities propose to take should be taken, if they so desire, within a period of 120 (one hundred twenty) days from the date of receipt of copy of this order.

7. With the above observation and direction, the Original Application is disposed of but without any order as to costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
18.11.99
VICE-CHAIRMAN

AN/PS