

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 334 OF 1998
Cuttack, this the 24th day of November, 1999

Sri Narendra Kumar Guru 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-CHAIRMAN
24.11.99

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CUTTACK BENCH, CUTTACK.

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CORAM:

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

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Sri Narendra Kumar Guru, aged about 21 years, son of
Krushna Chandra Guru, Village/PO-Lathipada,
Via-Mandhatapur, District-Nayagarhapplicant

Advocates for applicant - M/s S.K.Patri
S.K.Sahoo.

Vrs.

1. Union of India, represented through Senior Superintendent of Post Offices, Puri Division, Puri-752 001.
2. Sub-Divisional Inspector (Postal), Nayagarh East Sub-Division, Nayagarh-752 069.
3. Sub-Post Master, Mandhatapur S.O. under Nayagarh Head Office, Nayagarh.
4. Sri Ajay Kumar Sahoo, son of Shri Madhav Sahoo, Village/PO-Lathipada, Via-Nayagarh, District-Nayagarh.
5. The chief Post master General, Orissa Circle, Bhubaneswar.Respondents

Advocate for respondents - Mr.S.B.Jena
A.C.G.S.C. &

M/s A.Mohanty, A.K.Misra &
A.K.Das for R-4.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

J.Sam

In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the appointment of respondent no.4 to the post of EDBPM, Lathipada B.O. and to direct the departmental authorities to appoint the applicant to the post.

2. For the purpose of considering this OA it is not necessary to go into too many facts of this case.

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It is only necessary to note that for filling up of the post of EDBPM, Lathipada B.O. , respondent no.1 issued public notice inviting applications, in response to which the petitioner and several others applied. The petitioner has stated that he has the eligibility for being appointed to the post and he has passed Matriculation in Second Division securing 359 marks. But respondent no.4 was selected illegally ignoring the case of the applicant. That is why he has come up in this petition with the prayers referred to earlier.

3. Respondent no.4 in his counter has stated that there has been no illegality in his selection as he has the eligibility to be appointed to the post and has also been found more suitable than the applicant. Respondent no.4 has stated that the applicant's income statement is incorrect and respondent no.4 is more solvent than the applicant. Respondent no.4 has also stated that like the petitioner he is also an OBC candidate. On the above grounds respondent no.4 has opposed the prayer of the applicant.

4. The departmental respondents in their counter have stated that in the selection and respondent no.4 for the post of EDBPM, Lathipada, several illegalities have been committed by the Senior Superintendent of Post Offices, Puri Division. It is also stated that the Senior Superintendent of Post Offices, Puri Division, while placing requisition with the Employment Exchange, indicated that the preference would be given to SC, ST and OBC candidate subject to availability of vacancy for the particular community at

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the time of selection. This was wrong because he was required to assess adequacy of representation of reserved communities before placing requisition with the Employment Exchange, but this was not done. As the Employment Exchange authorities did not sponsor names within time a public notification was issued in response to which the applicant and respondent no.4 along with eight others applied. The Senior Superintendent of Post Offices rejected all the candidatures and ordered issue of fresh notification. In the second notification also it was mentioned that preference would be given to SC and ST candidates. But the particular community to which preference would be given was not notified in the order of shortfall. It is further stated that as per the checklist the applicant has got 359 out of 750 marks whereas respondent no.4 has got 348 out of 750 marks in the High School Certificate Examination. The application of respondent no.4 was rejected originally in response to the first public notice because of inadequate income and because of his not having any landed property. But in the second instance he was selected as he has submitted sale deed in his own name, but the claim of eligible candidates was ignored on the ground of inadequate income. The departmental authorities have stated that in view of the above illegalities they are proposing to take remedial action in the matter. But as the matter is under judicial scrutiny, further action has not been taken by them.

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5. We have heard Shri S.K. Patri, the learned counsel for the petitioner and Shri S.B. Jena, the learned Additional Standing Counsel for the departmental respondents and the learned counsel appearing for respondent no.4. We have also perused the records.

6. We have carefully considered the pleadings of the parties and the submissions made by their learned counsels. As in this case further action is proposed to be taken by the departmental authorities, it is not necessary for us to decide the matter on merits. We therefore dispose of this O.A. with the direction that the departmental authorities may take such action as they deem proper in the matter. We make it clear that such action should be taken by the departmental authorities strictly in accordance with law. We also make it clear that we are expressing no opinion on the merits of the averments made by the petitioner and respondent no.4 in the pleadings. Such action as the departmental authorities intend to take should be taken within a period of 90 (ninety) days from the date of receipt of copy of this order.

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

(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
24.11.99
VICE-CHAIRMAN