

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 346 OF 1998  
Cuttack, this the 18<sup>th</sup> day of November, 1999

Manoj Kumar Nayak ..... 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)  
VICE-CHAIRMAN

18.11.99

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CORAM:

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

.....

Manoj Kumar Nayak, aged about 20 years, son of  
Kelucharan Nayak, At-Rerbana Nuagaon, P.S-Brahmagiri,  
District-Puri ..... Applicant

Advocates for applicant - M/s Srinivas Mohanty  
D.D.Dhal.

Vrs.

1. Director of Postal Services, Bhubaneswar Division,  
Bhubaneswar.
2. Superintendent of Post Offices, Puri Division.
3. Mansingh Baral, son of Jagannath Baral, At/PO-Rebana  
Nuagaon, P.S-Brahmagiri, District-Puri  
..... Respondents

Advocates for respondents - Mr.B.k.NayaK  
ACGSC for  
Respondents 1  
and 2; and  
M/s K.P.Misra  
S.Rath,  
B.S.Misra  
J.K.Khandayat  
ray  
for R-3

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

J Som .

In this Application under Section 19 of  
Administrative Tribunals Act, 1985, the petitioner has  
prayed for quashing the selection of respondent no.3 as  
EDBPM, Rebana Nuagaon and for a direction to consider  
his candidature for the post of EDBPM, Rebana Nuagaon  
and to appoint him to the post.

2. The case of the applicant is that in  
response to a notice by the departmental authorities  
inviting applications for the post of EDBPM, Rebana  
Nuagaon, he applied for the post. He has passed

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Matriculation in First Division and is also otherwise eligible for the post. After considering the applications of the candidates, three candidates including the applicant were asked to bring all their documents for verification. The applicant has stated that respondent no.3 has passed Matriculation in Third Division. No notice was issued to him calling him to produce his documents for verification. But at the time of verification, the documents of respondent no.3 were also verified illegally and ultimately he was given appointment even though he was less meritorious. It is further stated that the letter of appointment has been served on respondent no.3 by hand and he has been asked to join with immediate effect. The applicant has stated that favouritism has been shown to respondent no.3, and in the context of the above facts, he has come up with the prayers referred to earlier.

3. The departmental respondents have stated that respondent no.1 examined the selection and appointment of respondent no.3 as EDBPM, Rebana Nuagaon and found the following irregularities in the selection. There was short-fall in the representation of SC, ST and OC communities, but the particular community to which preference was to be given was not notified in order of shortfall in representation of SC,ST and OBC candidates. Even though there was shortfall in the representation of SC and one SC candidate was available, no preference was given to him. According to Director General, Posts' circular dated 22.4.1994 the Chief Post Master General is empowered to allocate different categories of handicapped persons to be appointed and respondent no.2 was not empowered to make appointment of physically

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handicapped persons independently before allocation by Chief Post Master General. Respondent no.2 took decision on his own and appointed respondent no.3 giving preference as a physically handicapped person even though the vacancy was not notified for physically handicapped person. Respondent no.3 submitted land records on 19.1.1998 against the last date of 2.1.1998 for receipt of applications and necessary documents. This was also violative of the departmental instructions. It is also stated that respondent no.2 has made the selection and appointment of respondent no.3 in contravention of existing rules and instructions and there is justification for rectifying the erroneous appointment order. The departmental respondents have stated that as the matter is under judicial scrutiny, no further action has been taken by the departmental authorities in the matter.

4. We have heard Shri S.Mohanty, the learned counsel for the petitioner; Shri B.K.Nayak, the learned Additional Standing Counsel appearing for the departmental respondents; and Shri K.P.Mishra, the learned counsel for respondent no.3. It has been submitted by the learned counsel for respondent no.3 that in OA No.331/98 which also deals with appointment of respondent no.3 as EDBPM, Rebana Nuagaon, he has filed a written note of submission and the same may be taken note of in this case. We have accordingly taken note of the written note of submission filed by the learned counsel for respondent no.3 in OA No.331/98.

5. The departmental instructions provide that amongst the candidates eligible to be appointed to the post of EDBPM, the person, who has got the highest percentage of marks in Matriculation Examination, should be considered most meritorious and should be appointed. In the instant case, the petitioner has passed Matriculation in First Division whereas respondent no.3, according to the petitioner, has passed Matriculation in Third Division. We however do not intend to interfere in the selection and appointment of respondent no.3 at this stage because the matter is under consideration of the departmental authorities as per the counter filed by them. We, therefore, dispose of this OA with the direction to the departmental authorities that they may take such action as they deem proper in the matter of selection and appointment of EDBPM, Rebana Nuagaon. Such action has to be taken strictly in accordance with rules. We also make it clear that we are expressing no opinion about the merits of the parties and the action of respondent no.2 in selecting respondent no.3 for the post. The action to be taken by the departmental authorities should be taken within a period of 120 (one hundred twenty) days from the date of receipt of copy of this order.

6. In the result, the Original Application is disposed of with the above observation and direction but without any order as to costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

(SOMNATH SOM)

18.11.99  
VICE-CHAIRMAN