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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 359 OF 1998.
Cuttack, this the 4th day of October, 2002.

SURYANARAYAN KALIA.

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APPLICANT.

VRS.

UNION OF INDIA & OTHERS.

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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. Yes*

(B.N. SOM)
VICE-CHAIRMAN

(Manoranjan Mohanty)
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

04.10.2002

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 359 OF 1998.
Cuttack, this the 4th day of October, 2002.

C O R A M

THE HONOURABLE MR. B.N.SOM, VICE- CHAIRMAN
A N D
THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (J) .

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SURYANARAYAN KALIA,
Aged about 27 years,
S/o. Murari Mohan Kalia,
At/PO: Rangiam,
Dist: Mayurbhanj.

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APPLICANT.

By legal practitioner: M/s. K.K. Swain,
M. R. Nayak,
B. B. Mohanty,
P. N. Mohanty,
Advocates.

:VERSUS:

1. Chief postmaster General, Orissa, Bhubaneswar.
2. Superintendent of Post Offices, Mayurbhanj
Division, Baripada, Dist. Mayurbhanj-1.
3. Employment Exchange (District),
District Employment Exchange Officer,
Mayurbhanj, Baripada-1.

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RESPONDENTS.

By legal practitioner (for Respondents 1 & 2) : Mr. A.K. Bose,
Sr. Standing Counsel.
(for Respondent No. 3.) : Mr. K. C. Mohanty,
Government Advocate
for State of Orissa.

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ORDER

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

In order to filled up the post of Extra Departmental Branch Postmaster of Rangiam Branch Post Office under Nalagaja Sub Post Office, the Respondents notified the vacancy to Mayurbhanj District Employment Exchange (at Baripada) requiring it to sponsor names of candidates for the post in question (in letter dated 10.06.1998) and, in response thereto, the District Employment Exchange (Mayurbhanj) Baripada sent a list of 40(forty) candidates on 24.06.1998 under Annexure-R/1. All the candidates whose names were sent by the District Employment Exchange (Mayurbhanj) were given opportunities (vide letter dated 03.07.1998 of Respondent No.2) to apply (in the prescribed form giving details along with the required documents) for the post in question on or before 24.07.1998. Pursuant to the said letter of the Superintendent of Post Offices, only 12 candidates had applied for the post in the proforma along with documents. However, while the process was going on (for selection to the said post of E.D.B.P.M., Rangiam Branch Post Office) the applicant filed the present Original Application for a direction to Respondents to consider his case for the post (pursuant to his application dated 07.07.1998; which he had made directly to the Respondents) as his name was not sponsored by the Employment Exchange; because it was apprehended by the Applicant that his name may not be considered by the Respondents for the post in question. In the said premises, the Applicant, in this Original Application under Section 4



19 of the Administrative Tribunals Act, 1985, has prayed for the following reliefs :-

- a) necessary direction be made to the Respondents to allow the Applicant to participate in the selection process meant for Branch Postmaster post and he may be allowed to appear at the interview scheduled to be held on 21.07.1998;
- b) any other order/orders, direction/directions be issued so as to give complete relief to the applicant.



2. Respondents have filed their counter inter alia stating therein that since the name of the Applicant had not been sponsored by the Employment Exchange, his case could not be considered for the post in question. It has been averred by the Respondents that the assertion of the Applicant that he is a permanent resident of the post-village is no more available to be insisted upon in view of the amendment to the EDAs (Conduct and Service) Rules, 1964 on 06.12.1993 under Annexure-R/3. The Respondents have, however, relied upon the decision of this Bench (rendered in O.A. No.555/95) wherein this Tribunal, while dealing with a similar matter, rejected the plea of the Applicant in the said case for being considered for the post without his name being sponsored by the Employment Exchange. In that view of the matter, the Respondents have opposed the prayer of the Applicant. The learned counsel for the Applicant, in support of his submission, has relied upon the decision of the Hon'ble Supreme Court in the case of Excise Superintendent Malakpatnam Krishna District, Andhra Pradesh vs. K.B.N. Bisweshwara Rao and Ors. reported in Vol. 113, 1996(3)

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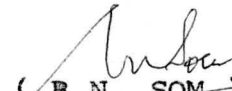
SLR 649 and stated that even if the names of the Applicant had not been sponsored by the District Employment Exchange, he has a right to be considered for the post of EDBPM, Rangiam Branch Post Office in pursuance of his application made to the Respondents directly.

3. Having heard the learned counsel for the both sides, we have looked into the concerned file (dealing with the selection and appointment for the post of EDBPM of Rangiam Branch Post Office) produced by the learned Senior Standing Counsel for the Union of India appearing for the Respondents (Mr.A.K.Bose) at the time of hearing. On perusal of the file, it revealed that the Applicant had passed the H.S.C. Examination in compartmental; whereas the selected candidate (Basanti Sethi) had passed H.S.C. Examination in one chance. At the direction of this Bench, the concerned file was also shown to Mr.Swain, the learned counsel appearing for the Applicant, in the Court; who had also fairly agreed to the proposition that he who passed H.S.C. Examination in 1st chance is to be adjudged better than the candidate who passed the said examination in more than one chance/compartmentally. Extra Departmental Agents (Conduct and Service) Rules, 1964, provide that the final selection is based on merit of the candidates based on the results of of the H.S.C. Examination. It is also clear that the selected candidate not only secured the highest marks in the H.S.C. Examination among the other candidates, who were in the fray of selection (including the Applicant) but also fulfilled all the criterion for being selected for the post in question. Since the learned counsel for the Applicant,

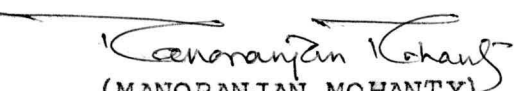
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after perusing the concerned filed, has expressed his satisfaction that on merit, the Applicant has no case ^{that} and ^{have been} he could not ^{be} selected for the post in question, it is needless for us to deal with the case of K.B.N. Viseshwara Rao (Supra) relied upon by the learned counsel for the Applicant. We, further, would like to add here that the assertion of the Applicant that he was not called for the interview is far from the Rules. There is no rule for calling or conducting the interview in respect of E.D. Agents. As observed earlier, the selection is based only on the materials placed on record fulfilling all conditions and not by any interview and, therefore, the question of calling him to the interview did not arise. In the aforesaid view of the matter, we find no illegality in the process of selection and appointment to the post of EDBPM, Rangiam Branch Post Office. Hence this Original Application is dismissed, but, however, there shall be no order as to costs.


(B.N. SOM)
VICE-CHAIRMAN

KNM/QM/


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

04.10.2002

