

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 498 OF 1998.
Cuttack, this the 27th day of June, 2000.

RABINDRA KUMAR SAHOO. ... APPLICANT.

VRS.

UNION OF INDIA & 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*

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN, 2000.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 498 OF 1998.

Cuttack, this the 27th day of June, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

Rabindra Kumar Sahoo, Aged about 28 years,
S/o.Nityananda Sahoo, At/Po: Tandikula,
Via.Kiran, Dist.Jagatsinghpur. ... Applicant.

By legal practitioner: M/s.B.M. Patnaik, Rakesh Sharma,
S.Singhsamanta, Advocate.

- Versus -

1. Union of India represented through Postmaster General
Orissa, At/Po: Bhubaneswar,
Dist: Khurda.
2. Superintendent of Post
Offices,
Cuttack South Division,
At/Po/Dist: Cuttack;
3. Inspector of Post Offices,
Kujanga , Dist. Jagatsinghpur.
4. Subha Narayan Swain,
At/Po: Kuliagaon,
Via. Balikuda,
Dist: Jagatsinghpur.

... Respondents.

S. Jom.
By legal practitioner: Mr.U.B. Mohapatra, Additional Standing
Counsel for Respondents 1 to 3.

Ms. S. L. Patnaik, Advocate
for Respondent No. 4.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals ACT, 1935, the applicant has prayed for quashing the appointment of Respondent No. 4 as EDBPM, Tandikula Branch Post Office and for passing of appropriate orders. Departmental Respondents have filed counter opposing the prayer of the applicant.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. We have heard Mr. S. Singh Samanta, learned counsel for the applicant and Mr. A. K. Bose, learned Senior Standing Counsel appearing for the Respondents as also Madam S. L. Patnaik, learned counsel appearing for the private Respondent No. 4, and have perused the records.

3. The admitted position is that for filling up of the post, publication notification at Annexure-2 was issued and in this notification, the post was reserved for ST candidate. It was also mentioned that in case three ST candidates do not apply, then the post will be offered to candidates belonging to other reserved communities in order of deficiency in reservation. In response to the notice eight persons filed application. There was no candidate belonging to ST community. There were two candidates belonging to SC, two OBC and 4 other Communities. Departmental Respondents have stated that as there were less than three candidates from OBC and SC community, the post was treated as unreserved and all the eight

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candidates were considered for the post. It has been submitted by learned counsel for the petitioner that in terms of the notification at Annexure-2 in the absence of ST candidate, OBC and SC candidates should have been taken together and there being four candidates belonging to OBC and SC together, these four alone should have been considered for the post. This contention is not acceptable because in the notice it has been mentioned that in the absence of ST community, OBC/SC community should be considered in order of deficiency in their representation. Departmental Rules also provide that for considering the candidature of a particular community at least three candidates belonging to that community should be in the zone of consideration. As in this case the number of candidates from OBC and SC community were only two each, the selection could not have been confined either to OBC and SC candidates. There was also no question of combining the SC and ST together because amongst reserved candidates have different categories ^{job.} to be considered separately for the Govt. Moreover, even amongst SC and OBC candidates, the petitioner has not got the highest percentage of marks. There are two candidates one belonging to SC and one belonging to OBC, who have got higher marks than the applicant. In consideration of the above, this contention of the learned counsel for the applicant is held to be without any merit and is rejected. We find that amongst all the four candidates, the selected candidate, Res. No. 4 has got higher marks of 58.26% in HSC examination. He got 437 out of 750 whereas the present applicant has got 240 out of 700 marks which works out to 34.28%. Therefore, the averment made by the applicant in

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the Original Application that he has got highest marks in the HSC examination is not correct.

4. In view of the fact that Respondent No. 4 has got highest percentage of marks, the Departmental Authorities have rightly selected him.

5. The third point made by learned counsel for the petitioner is that according to the instruction of DG of Posts appointment to the post of EDBPM need not be confined to a person belonging to the post village but the selected person before his appointment must take up a residence in the post village and provide rent free accommodation for holding the post office. It is submitted by the learned counsel for the petitioner that the Departmental Respondents at page-17, page-5 of their counter have stated that the selected candidate has to take residence in the post village after his appointment. This according to the learned counsel for the petitioner is not in accordance with the rules and instructions issued by the Director General of Posts. In any case, from the counter of the Departmental Respondents it appears that the selected candidate, Respondent No. 4 has taken up residence in the village and is managing the post office in the post village. In view of this, we do not find any infirmity in the selection and appointment of Respondent No. 4.

6. In the result, the Original Application is held to be without any merit and the same is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHANCELLOR
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