

7
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.61 OF 1998
Cuttack, this the 24th day of November, 1998

Sri Narayan Sahani 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 24/11.98

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CORAM:

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

.....

Sri Narayan Sahani,
aged about 23 years
son of Mahantar Sahani,
At/PO-Mandar, Via-Balipadar,
Dist.Ganjam, Pin-761 117,
at present as above
Address for correspondence:
C/o Sri R.K.Bisoi, advocate,
4797, Nageswar Tangi,
Bhubaneswar-2

Applicant

By the Advocates - M/s B.K.Mohanty &
R.K.Bisoi.

Vrs.

UNION OF INDIA represented by:

1. Chief Post Master General,
Orissa, Bhubaneswar,
At/PO-Bhubaneswar, Dist.Khurda.
2. Post Master General,
Berhampur Region,
At/PO-Berhampur, Dist.Ganjam.
3. Superintendent of Post Offices, Aska Division,
At/PO-Aska, Dist.Ganjam.
4. Reenarani Devi,
Branch Post Master,
Mandar Branch Post Office,
At/PO-Mandar, Via-Balipadar,
Dist.Ganjam.

Respondents.

By the Advocate - Mr.Akhaya Ku.Misra,
Addl.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

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In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the appointment order of respondent no.4 under Annexure-9 and also for a direction to respondent nos. 1 to 3 to consider the case of the applicant for appointment

to the post of EDBPM, Mandar B.P.O.

2. The case of the applicant is that to fill up the vacancy in the post of EDBPM, Mandar B.P.O., Superintendent of Post Offices, Aska Division (respondent no 3) issued a notification inviting applications. In response to this, the applicant submitted his application on 24.10.1997 with all necessary documents and his application was also received before the due date. The applicant has stated that he has passed Matriculation in First Division whereas respondent no.4 passed Matriculation in Second Division, and as such respondent no.4 is less meritorious. The applicant has also stated that he has no sufficient landed property to maintain his family and has no other source of income except the scanty income from his landed property. The Superintendent of Post Offices, Aska Division, without considering the case of the applicant, issued appointment order in favour of respondent no.4. It is further stated that husband of respondent no.4 is a Clerk in Maa Bharandi High School, Mandar. Earlier he was working simultaneously as EDBPM, Mandar B.O. He suppressed the fact of his employment as a Clerk in the school and because of this, a disciplinary proceeding was initiated against the husband of respondent no.4 which ended in an order of termination of his service. It is further stated that because the husband of respondent no.4 was earlier working as EDBPM, respondent no.4 could get herself appointed to the post and the departmental authorities have shown favouritism to respondent no.4. The applicant filed a representation to respondent no.2 but this was not considered and as such he has come up in this OA with the aforesaid prayers.

3. The departmental respondents in their counter have stated that the post of EDBPM, Mandar B.O., fell

vacant on 16.9.1997 because of removal of Rajani Kanta Dalbehera from that post. Initially, names were called from Employment Exchange, but no names were received. As such public notice was issued inviting applications, in response to which eight applicants including the present applicant and respondent no.4 submitted their applications. The departmental respondents have stated that the application of the petitioner dated 24.10.1997 was received in time on 27.10.1997. But it was not accompanied with the Income Certificate and as such his candidature was rejected. The departmental respondents have stated that amongst the eight candidates there were two other candidates namely Debasis Chaudhury and Srikanta Kumar Guru who had secured higher marks than the applicant, but those two candidates were also not considered due to non-submission of all the required documents by them. Out of the three eligible candidates who had submitted all the required documents, respondent no.4 had secured the highest percentage of marks and as such she was selected for the post. The departmental respondents have also stated that in the notification it was mentioned that preference would be given to ST candidate. But in case no ST candidate is available, selection would be made from amongst other candidates as per rules. As no ST candidate had applied, the departmental authorities have considered the candidates belonging to other category. The departmental respondents have also enclosed a report from Superintendent of Post Offices, Aska Division to the Post Master General, Berhampur Region furnishing a copy of the comparative chart in which against the name of the applicant ^{it} has been mentioned that Income Certificate is wanting. The petitioner in his application has mentioned that income certificate issued by the Tahasildar is at Annexure-7 and from this we find that the income certificate was issued on 19.3.1997, much before the date of submission of his application. In view of this, we had asked the learned

Additional Standing Counsel appearing for the departmental respondents to submit the selection file which has also been produced.

4. We have heard Shri B.K.Mohanty, the learned counsel for the petitioner and Shri Akhaya Kumar Mishra, the learned Additional Standing Counsel appearing for respondent nos. 1 to 3. Respondent no.4 was issued with notice, but she did not appear nor did she file counter. The learned counsel for the petitioner has also filed a written note of submission which has been taken note of.

5. In the written submission it has been mentioned by the applicant that along with his application he submitted the income certificate which was obtained by him on 19.3.1997, much before filing of the application by him on 24.10.1997 and he did actually enclose the income certificate. For ascertaining this point, we have looked into the selection file. From the application before the departmental authorities for the post of EDBPM, Mandar, it appears that the petitioner in the application has written that he has enclosed fifteen items. We have counted the items. If the copies of pattas for three sets of lands are taken as three items and the two character certificates are taken as two items, then the total number of items comes to sixteen. Learned Additional Standing Counsel has submitted that possibly the applicant has taken the two character certificates given by two persons as one item and if those are taken as one item, then the total number of items enclosed would be fifteen and the income certificate is not one of them. The applicant has also submitted three pattas regarding three different sets of lands. If it is taken that the applicant while describing his enclosures as fifteen items, has taken the three pattas as one item which is quite likely and the two conduct certificates as two items, even then the total number comes to fourteen. It is also to be

noted that the applicant has obtained the Income Certificate much earlier on 19.3.1997. The applicant has alleged that the departmental authorities have shown favouritism to respondent no.4 who is the wife of the previous EDBPM. But as the applicant has not impleaded the concerned departmental officers by name as parties, it is not possible for us to probe into the question of mala fide any further. In consideration of the fact that there is a discrepancy between the number of enclosures actually given by the petitioner along with his application and the number described by him in the application, a reasonable doubt arises whether the applicant did or did not submit the income certificate. It is also to be noted that the according to the notification calling for applications last date was 28.10.1997 and the application of the petitioner was received on 27.10.1997. In case there was a discrepancy between the description of the number of items enclosed to the application and the items actually enclosed, the applicant could have been asked to clarify the matter. As we have earlier noted, if we take every item of documents, three pattas as three items and two character certificates as two items, the total becomes sixteen. On the other hand, if three pattas are taken as one item and two character certificates as one item, the total number becomes thirteen. In view of the above, there is certainly a doubt whether the applicant did or did not submit the income certificate which in any case has been obtained by him much prior to submission of the application. In view of the above, we hold that rejection of the applicant's candidature has not been correctly done. Consequently, the selection of respondent no.4 is also held to be not legal and set aside. The departmental respondents should give the applicant a reasonable opportunity to produce the Income Certificate

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once again. As such an opportunity would be given to the applicant, the same opportunity should be given to other candidates whose candidatures were also rejected because they did not submit all the required documents. After getting those documents from them, the departmental authorities should consider the candidatures of all the eight persons afresh and select the best amongst them.

6. In the result, therefore, the Original Application is allowed to the extent indicated in paragraph 5 of this order. There shall be no order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 24.11.98