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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 670 OF 1998  
Cuttack this the 13th day of July, 1999

(PRONOUNCED IN THE OPEN COURT)

Alok Kumar Swain

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Yes.*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *NO.*

13.7.99

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*13.7.99*

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.670 OF 1998  
Cuttack this the 13th day of July, 1999

CORAM:

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

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Sri Alok Kumar Swain,  
aged about 21 years,  
Son of Bishnu Ch.Swain  
Village: Singipur, PO: Baijanga  
District: Jagatsinghpur

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Applicant

By the Advocates : Mr.T.Rath

-Versus-

1. Union of India represented through  
the Chief Post Master General,  
Orissa, Bhubaneswar, At/PO: Bhubaneswar  
Dist: Khurda
2. Superintendent of Post Offices,  
Cuttack South Division, Cuttack  
At/PO/Dist: Cuttack
3. Asst.Superintendent of Post Office,  
Incharge, Jagatsinghpur Sub-Division  
At/Po/District: Jagatsinghpur

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Respondents

By the Advocates : Mr.A.K.Bose  
Sr.Standing Counsel

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*S. Som*

ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for direction to be issued to respondents, particularly, Assistant Superintendent of Post Offices, Jagatsinghpur (Res.3) to consider his candidature along with others for the post of Extra Departmental Delivery Agent, Savamul B.O.

2. The case of the applicant is that for filling up of the post of E.D.D.A., Savamul, names were called for from the employment exchange. The applicant had registered his name in the employment exchange in September, 1996 and had a valid subsisting employment exchange card, but his name was not sponsored by employment exchange. Applicant submitted an application to Re.3 on 18.11.1998, but he apprehends that his candidature not having been sponsored by the employment exchange would not be considered; that is why he has come up in this application with the prayers referred to earlier.

3. On the date of admission of this Original Application on 22.12.1998, following the order passed by their Lordships of the Hon'ble High Court in O.J.C.10454/97 dated 31.7.1997, by way of interim relief, it was directed that pendency of this application should not be a bar on the respondents to consider the candidature of the applicant for the post of E.D.D.A., Savamul.

4. Respondents in their counter have submitted that the post of E.D.D.A., Savamul fell vacant with

effect from 22.7.1998 due to retirement on superannuation of the regular incumbent. Employment Exchange was moved on 5.6.1998 for sponsoring names of suitable candidates by 5.7.1998. Accordingly 40 names were sponsored by the employment exchange and they were asked to submit their applications. The respondents have stated that as the applicant's name has not been sponsored by the employment exchange his candidature cannot be taken into consideration. Respondents have further stated that as in this case selection process is taken up prior to issue of D.G.Posts circular dated 19.8.1998, there was no obligation on the part of the departmental authorities to issue public notice. On the above grounds the respondents have opposed the prayer of the applicant.

5. Heard Shri T.Rath, learned counsel for the petitioner and Shri A.K.Bose, learned Senior Standing Counsel appearing for the respondents and also perused the records. It is no doubt correct that circular of D.G.Posts making it obligatory to get the names from the employment exchange and simultaneously to issue public notice came into force with effect from 19.8.1998. It is also the position that in this circular it was mentioned that the new procedure will apply only in respect of those vacancies where selection process had not been initiated already prior to issue of this circular. But this circular has been issued in pursuance of the decision of the Hon'ble Supreme Court in the case of **Excise Superintendent, Malakpatnam, Krishna District, A.P. vs. K.B.N. Visweshwara Rao & Others** reported in 1996(7) Supreme 210 and (1996) 6 SCC 216. This decision

Scm.

of the Hon'ble Supreme Court came much prior to the date of issue of circular by the D.G.Posts. The Hon'ble Supreme Court in their above decision emphasised the need for making the selection broad based. In consideration of the above, we direct the respondents to consider the candidature of the applicant as also the candidates who might have applied directly to the departmental authorities for the above said post along with the candidates, who have applied in response to their names being sponsored by the employment exchange. The above direction is subject to the condition that candidature of the applicant as also candidature of the other applicants who might have applied directly to the departmental authorities, <sup>di</sup> <sup>JSM</sup> shall be considered if <sup>JSM</sup> their applications complete in all respects ~~must~~ have reached the departmental authorities on or before the last date fixed for receipt of applications. Such consideration should be made strictly in accordance with rules.

With the above observations and directions the Original Application is disposed of, but without any order as to costs.

13.7.99  
(G.NARASIMHAM)  
MEMBER(JUDICIAL)

B.K.SAHOO

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
13.7.99