

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

**ORIGINAL APPLICATION NO. 14 OF 1999
Cuttack this the 14th day of September/2000**

Prabhakar Sahu ... **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**.

14.9.2000
(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath SCM
(SOMNATH SCM)
VICE-CHAIRMAN
14.9.2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 14 OF 1999
Cuttack this the 14th day of September/2000

CORAM:

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

Sri Prabhakar Sahu,
aged about 27 years,
S/o. Sri Jagannath Sahu
At - Lokenathpur, PO: Sarua
Via/Dist - Khurda

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Applicant

By the Advocates

M/s. S.K.Samantray
A.K.Jena
S.K.Sahoo

-VERSUS-

1. Union of India represented through the Secretary, Department of Posts, Dak Bhawan, New Delhi
2. The Chief Post Master General, Orissa Circle, At/PO: Bhubaneswar, Dist - Khurda
3. The Senior Superintendent of Post Offices, Puri Division, At/PO/Dist: Puri, PIN-752001
4. The Asst.Superintendent of Post In-charge, Khurda Sub-Division, At/PO/Dist - Khurda P I N - 752 055
5. Sri Bipini Mohabhoi, S/o.Binod Mahabhoi At/PO - Sarua, Via/Dist - Khurda

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Respondents

By the Advocates

Mr.S.B.Jena,
Addl.St.Counsel
(Central)
(For Res.1 to 4)

ORDER

MR.SOMNATH SQM, VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to the departmental authorities to cancel the appointment of Respondent No. 5 to the post of Extra Departmental Branch Post Master, Sarua Branch Office and to give/appointment to that post as per

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selection made in his favour on 5.11.1998. The Departmental Respondents have filed their counter opposing the prayer of the applicant. Private Respondent 5 was issued with notice, but he did not appear nor filed any counter. We have heard Shri S.K.Samantray, learned counsel for the applicant and Shri S.B.Jena, learned Addl. Standing Counsel appearing for Respondents 1 to 4 and also perused the records. For the purpose of considering this Application it is not necessary to go into too many facts of this case. The undisputed position is that vacancy in the post of E.D.B.P.M., Sarua Branch Office occurred due to superannuation of the regular incumbent. Employment Exchange on being moved did not sponsor any names and therefore, public notice was issued calling for applications. In the public notice it was stipulated that preference would be given to ST/SC candidates and no preference would be allowed in favour of any other community. Of the 10 applications received no candidate belonging to ST/SC community did apply and therefore, the vacancy was treated as unreserved to be filled in by general category candidate. After preliminary scrutiny the applications of the petitioner, Res.5 and one Kali Prasad Sahu were sent for scrutiny and verification and ultimately Respondent No. 5 was selected.

2. Learned counsel for the petitioner has challenged the selection of Respondent No.5 to the post in question firstly on the ground that in letter issued by ^{the} Verifying Officer at Annexure-4 for conducting verification of the documents of the three candidates, it was specifically mentioned that during verification the Verifying Officer should verify the declaration given by the house owner in case the candidate wants to

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offer rent free accommodation for holding the Post Office. It is further stated by the applicant that during verification the Verifying Officer found that the accommodation offered by Respondent No.5 belongs to a joing family property. The applicant has also stated that Respondent 5 did not produce the declaration of house owner as required. It is further stated by the applicant that accommodation offered by the third candidate, viz., Kali Prasad Sahu is built up in an encroached Govt. land. Departmental respondents in their counter have stated that the Verifying Officer found that the accommodation offered by Respondent No.5 is suitable and this was accepted. Learned counsel for the petitioner has not shown any evidence besides his bland assertion that accommodation offered by Respondent No.5 was found unsuitable by the Verifying Officer on the date of verification. This contention is, therefore, held to be without any merit and the same is rejected. As regards the second contention that no declaration from house owner was furnished, the E.D. Rules do not provide that such a declaration must be filed. It only provides that the selected candidate must take up the residence in the post village and would provide rent free accommodation for holding the post office. In view of this even it is conceded for argument sake that no such declaration was produced at the time of verification, this would not by itself invalidate the appointment of Respondent No.5. The third contention of the learned counsel for the petitioner that on the date of verification, i.e. on 5.11.1998 applicant was selected by the Verifying Officer. This contention is held to be without any merit, because the Verifying Officer is not the

appointing authority and the verification was only for the purpose of checking up the originals of the documents as also the accommodation to be provided by the candidates, in the zone of consideration. We find from the check list that amongst three candidates, who were in the zone of consideration, the selected candidate(Res.5) has secured highest percentage of marks, i.e. 60.14%, whereas applicant has got only 57.71% of marks. We also find that in between Res.5 and applicant, Kali Prasad Sahu placed at Sl. No.2 has secured 58% of marks. The rules are very clear that amongst the eligible candidates person securing the highest percentage of marks in the H.S.C. Examination must be held the most meritorious. The departmental authorities in this case have selected Respondent No.5, who has got the highest percentage of marks in the H.S.C. Examination. In view of this we find there has been no infirmity in the process of selection for the post of E.D.B.P.M., Sarua Branch Office.

In view of discussions held above, we hold that the applicant is not entitled to any of the reliefs prayed for. The O.A. is held to be without any merit and the same is therefore, rejected, but without any order as to costs.

14.9.2000
 (G.NARASIMHAM)
 MEMBER (JUDICIAL)

SOMNATH SORI
 (SOMNATH SORI)
 VICE-CHAIRMAN

B.K.SAHOO//