

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.151 OF 1999  
Cuttack this the 28<sup>th</sup> day of February/2001

Benudhar Panda

...

Applicant(s)

-VERSUS-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*28.2.2001*

28.2.2001  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 151 OF 1999  
Cuttack this the 28<sup>th</sup> day of February/2001

CORAM:

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

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Sri Benudhar Panda, aged 32 years, S/o, Harekrushna  
Panda, At/PO-Kundeswar, Via:Alanahat, Dist-Jagatsinghpur

Applicant

By the Advocates

Mr .P.K. Padhi

-VERSUS-

1. Union of India represented by it's  
Chief Post Master General (Orissa Circle)  
At/PO-Bhubaneswar, Dist-Khurda-751001
2. Superintendent of Post Offices,  
Cuttack South Division, At:P.K.Parija Marg,  
PO: Cuttack G.P.O., Dist-Cuttack
3. Assistant Superintendent of Post Offices,  
Jagatsinghpur Sub Division, At/PO/Dist-Jagatsinghpur-754013
4. Bibhudha Kumar Pradhan, E.D.Packer, At/PO-Kaduapara  
Dist-Jagatsinghpur

...

Respondents

By the Advocates

Mr .J.K.Nayak  
ASC (Central)

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O R D E R

MR .G.NARASIMHAM, MEMBER (JUDICIAL): In this Original Application  
praying for quashing the selection and appointment of Bibhudha  
Kumar Pradhan (Respondent No.4) to the post of E.D.Packer,  
Kaduapara S.O. under Jagatsinghpur H.O., the case of the applicant  
Benudhar Panda, along with 75 others including Res. 4, being the  
candidates for selection was considered by the Department vide  
Annexure-R/5 (Check-sheet).

2. The grievance of the applicant is that he is  
educationally more meritorious than Respondent No.4 inasmuch  
as while he passed Matriculation in 2nd Division, Respondent 4  
passed that examination in 3rd Division, securing lesser marks  
than him. Further, the appointing authority (Respondent No.3)

had a vested interest in Respondent 4 and accordingly, illegally selected and appointed him.

3. Respondent No.4 though duly noticed had neither entered appearance nor filed any counter.

4. The Department representing Respondents 1 to 3 in their counter take the stand that in order to fill up the vacant post, the Employment Exchange, Jagatsinghpur was addressed in letter dated 18.1.1999 under Annexure-R/1. Simultaneously a public notice was also issued inviting applications under Annexure-R/4. In both these notifications it was clearly indicated that preference would be given to Scheduled Tribe candidates and in the absence of three eligible S.T. candidates, preference would go to O.B.C. candidates. Out of 75 candidates applied for the post, two were S.T. candidates and their applicants were also incomplete. Hence the selection was thrown open /to O.B.C. candidates, to which Respondent No.4 belongs.

Moreover, Respondent No.4 has been serving as casual labourer in Mandasahi S.O. since 1.9.1988 and as per the departmental circular dated 6.6.1988 (Annexure-R/7), casual labourers, whether full-time or part-time, who are willing to be appointed against E.D. vacancies may be given preference in the matter of recruitment to the E.D.Post, provided they fulfil all the conditions and have put in a minimum service of one year, i.e., 240 days in a year, provided, such casual labourers have been initially been sponsored by the Employment Exchange. In the counter it has been mentioned that name of Respondent 4 was sponsored by the Employment Exchange. Lastly respondents deny ~~any~~ favouritism having been shown to Respondent No. 4.

No rejoinder has been filed.

5. We have heard Shri P.K.Padhi, the learned counsel for the applicant and Shri J.K.Nayak, the learned Addl. Standing Counsel for the respondents. Also perused the records.

6. It is clear from Annexures-R/1 and R/4, i.e., letter addressed to the Employment Exchange and public notice, respectively that it was indicated that preference would be given to Scheduled Tribe and in case minimum three eligible candidates belonging to S.T. community were not sponsored, then preference would be given to O.B.C. There is no dispute that Respondent 4 is a candidate belonging to O.B.C. community. It is also not in dispute that amongst 75 candidates applying for the post, only two candidates belonging to Scheduled Tribe, vide Sl. Nos. 17 and 66 of the check-sheet, under R/5 were in the zone of consideration. Candidate placed at Sl. No.17 had not filled in declaration column in the application form, but only put cross mark. Hence his application was found to be defective. As regards candidate at Sl. No.66, he did not enclose the conduct certificate as required in the notification. Hence these two applications were rejected. Thus in the absence of required number of eligible candidates belonging to S.T. community preference was given to OBC candidates and ultimately Respondent No.4, who belongs to O.B.C. was selected. Even otherwise, he being a casual labourer since 1988 and sponsored by the Employment Exchange, as per the Departmental circular dated 6.6.1988 (Annexure-R/7), he has a preference in the matter of appointment to this E.D.Post.

7. Barring allegation that favouritism was shown to Res.4, the applicant could not/did not substantiate this allegation that appointing authority did in fact show favouritism to the

selected candidate (Res.4).

In the result we do not see any merit in this application which is accordingly rejected, but without any order as to costs.

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
28-2-201

28-2-201  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

B.K.SAHOO//