

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO. 155 OF 1999.
CUTTACK, this the 22nd day of May, 2000.

JAGDISH HOTA.

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APPLICANT.

VRS.

UNION OF INDIA & ORS.

....

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*.

J. S. Dhaliwal
(J. S. DHALIWAL)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 155 OF 1999.

Cuttack, this the 22nd day of May, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

and

THE HONOURABLE MR. J. S. DHALIWAL, MEMBER (JUDICIAL).

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SHRI JAGDISH HOTA, Aged about 36 years,
Son of Ram Chandra Hota, At/Po. Gopinathpur,
Dist. Puri.

: Applicant.

By legal practitioner : M/s. G.K. Misra, G.N. Misra, A. Parida,
Advocate.

-Versus-

1. Union of India represented through
Director General of Posts,
New Delhi.
2. Chief Postmaster General Orissa,
Bhubaneswar, Dist. Khurda.
3. Senior Superintendent of Post Offices,
Puri.
4. Pravakar Parida, Aged about 25 years,
S/o. B. Rundaban Parida,
At/Po. Talajangala, Dist. Puri.

S. J. S.
: Respondents.

By legal practitioner : Mr. A. K. Bose, Senior Standing counsel
for Respondents 1 to 3.

By legal practitioner : M/s. S. Mohapatra, K. R. Mohapatra, S. Ghosh,
for Respondent No. 4.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed that the selection and appointment of Respondent No. 4 to the post of Extra Departmental Branch Post Master, Talajangal Branch Post Office should be quashed and the Departmental Authorities be directed to declare that the applicant is more meritorious and to issue necessary orders of appointment to him for the post.

2. Departmental Respondents have filed counter opposing the prayers of the applicant. Respondent No. 5 appeared through his counsel and has adopted the counter submitted by the Departmental Respondents.

3. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. The admitted position between the parties is that while notifying the vacancy it was clearly mentioned in the notification dated 3.4.1998 at Annexure-R/1 that preference will be given to ST/SC/OBC candidate in descending order subject to fulfilment of other basic conditions for the post. Applicant belongs to general category and the selected candidate, Res. No. 4 as claimed by him and accepted by the Department. Both the applicant and Respondent No. 4 were considered in the process of selection. It is also a fact that the applicant has got higher marks than Respondent No. 4 but Respondent No. 4 was selected as he belongs to OBC category and the post was reserved for OBC failing any selection of ST/SC candidate.

Som *he is OBC* *Som*

4. We have heard Mr. G.K. Mishra, learned counsel for the applicant, Mr. Anup Kumar Bose, learned Senior Standing Counsel (Central) appearing for the Departmental Respondents and Mr. S. Ghosh, learned counsel appearing for the Respondent No. 4 and have also perused the records.

5. The only point urged by the learned counsel for the applicant is that Respondent No. 4 does not belong to OBC community. It is submitted by him that in certain documents filed by the Respondent No. 4 his caste has been mentioned as Khandayat and Khandayat caste is not covered under the OBC. It is submitted by the Departmental Respondents that Respondent No. 4's caste is CHASA and according to the appropriate notification, this caste comes under the definition of OBC and it is submitted that Respondent No. 4 has filed OBC certificate from the authorised officer i.e. Tahsildar and this has rightly been accepted. As according to the notification in the process of selection it was declared that the preference will be given to ST/SC/OBC in descending order and as applicant is a person belonging to general community and Respondent No. 4 the selected candidate belongs to OBC, we hold that the applicant has not been able to make out a case for a direction to the Departmental Respondents for issuing him an order of appointment.

6. The other aspect of the matter is that the Departmental Respondents in their counter have mentioned that only 2 OBC candidates applied and they were considered. Departmental Instructions are clear that for making a selection for a particular community at least three candidates from that category must be there in order to make the process of selection fair and just. Departmental instructions also provide that in case where three candidates are not available in spite of

best efforts of the Department, it is possible to make the selection out of two candidates after obtaining orders of the higher authorities. In this case, selection has been made out of two candidates and the Departmental Respondents in their counter have mentioned that for making such a selection they have obtained the approval of the higher authorities.

7. In view of this, we do not find any merit in this Original Application which is accordingly rejected. No costs.

Jaswinder
(J. S. DHALIWAL)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
Adarsh

KNM/CM.