

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.199 OF 1999
Cuttack this the 19th day of June, 2000

Ramakanta Parida ... Applicant(s)

10

Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

10

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*

(G.NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

19. Old no.

10
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 199 OF 1999
Cuttack this the 19th day of June, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND

THE HON'BLE SHRI G. NARASIMHAM, MEMBER (JUDICIAL)

...

Ramakanta Parida 32 years
S/o. Brundaban Parida, Artunga
PO: Barapur, Via: Anantapur,
Dist: Bhadrak

...

Applicant

By the Advocates

.....

M/s. A.K. Mishra
J. Sengupta
PRJ Dash
G. Sinha

-VERSUS-

1. Union of India through
Director General Posts,
Daktar Bhaban,
New Delhi
2. Chief Postmaster General,
Orissa Circle, Bhubaneswar
3. Postmaster General, Bhubaneswar
Orissa
4. Superintendent of Post Offices,
Balasore Division, Balasore

...

Respondents

S. Som By the Advocates

Mr. A. Routray,
Addl. Standing Counsel
(Central)

M/s. P. K. Padhi
U. R. Bastia
(Intervener)

...

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to the departmental respondents to appoint him as Extra Departmental Branch Post Master, Barapur Branch Office.

2. Applicant's case is that for filling up of the post of E.D.B.P.M., Barapur Branch Office employment exchange was moved and the name of the petitioner along with four candidates were sponsored. The sponsored candidates were asked to file application in prescribed form with necessary documentation. Simultaneously a public notice was issued inviting applications from the public. Applicant submits that he belongs to O.B.C. category and in accordance with circular or D.G.Posts preference should have been given to an O.B.C. candidate. It is further stated that the matter of issuing of appointment order is still pending consideration and no order has been issued. In view of this he has come up in this petition with the prayers referred to earlier. Prior to this, he had filed a representation to A.P.M.G. to issue orders finalising the selection.

3. One Judhistir Panda got himself impleaded as intervenor - Res.5. He is the selected candidate. In the counter filed by intervenor Shri Panda it has been stated that in the public notice issued by the departmental authorities there was no indication that preference would be given to SC/ST/O.B.C. candidates and therefore, applicant cannot claim preference as an O.B.C. candidate. It is further stated by him that the selection has been done correctly and he has been duly selected. On the above grounds intervenor Shri Panda has opposed the prayer of the applicant.

S.Som

4. Departmental respondents in their counter have stated that employment exchange was moved on 30.6.1997 to sponsor candidates within 30 days. But the employment exchange sponsored five candidates and the letter of employment exchange was received on 31.7.1997, i.e. after expiry of 30 days, that is why public notice was issued inviting applications and simultaneously the candidates sponsored by the employment exchange were asked to file detailed applications. The petitioner, whose name was sponsored by the employment exchange submitted detailed application with necessary documentation. In response to public notice seven candidates applied for the post. It is submitted that intervener in the present O.A. got the highest percentage of marks amongst all the candidates. Intervenor secured 67.14% of marks whereas the applicant secured 50% marks. It is therefore, stated that intervener was rightly selected.

5. We have heard Shri A.K.Mishra, learned counsel for the applicant, & Shri A.Routray, learned Addl. Standing Counsel for the departmental respondents and Shri P.K.Padhi, learned counsel appearing for intervener Shri Judhistir Panda and also perused the records.

6. Learned counsel for the petitioner mentioned only two points in support of his prayer. The first point is that from the check list at Annexure-4 to the counter of the departmental respondents the annual income of intervener is shown as Rs.2000/- It was stated that annual income of the applicant is shown as Rs.4500/- It was submitted that annual income of Rs.2000/- in respect of intervener as has been mentioned in the counter cannot be held to be an independent means of livelihood and ^{on} that ground candidature of intervener should have been rejected. We are unable

to accept this contention because the departmental instructions clearly lay down that for the purpose of selection the person securing highest percentage of marks in the Matriculation Examination will have to be taken to be the most meritorious. On the question of income the departmental instructions provide that the selected candidate must have adequate means of livelihood. There are also departmental instructions which clearly lay down that selection should not be made on the ground of a person having higher income than others. As the departmental authorities were satisfied that intervener has independent means of livelihood of Rs.2000/- on the basis of his income from land, it cannot be said that the candidature of intervener should have been rejected on the ground of his not having independent means of livelihood. This contention of the learned counsel for the petitioner is held to be without any merit and the same is rejected.

S.Som -

The second contention made by the petitioner is that even though selection was made sometime in 1997 for more than one and half years the matter was not finalised. It is submitted that the plea taken by the departmental authorities that the delay occurred due to holding of enquiry cannot be accepted. Departmental respondents have pointed out in Para-3 of the counter that intervener was selected as E.D.B.P.M., but his appointment was held up due to interim order dated 15.7.1999 passed by the Tribunal and that he would be appointed as soon as interim order of stay is vacated. The interim order was vacated in order dated 13.10.1999 and it is submitted by the learned counsel for intervener Shri Padhi that in the meantime intervener has joined the post. The part of delay in issuing appointment order is due to the stay order passed by the Tribunal. In any case delay

14

in finalising the selection will not by itself validate the claim of the petitioner. Moreover from the check list it appears that the selected candidate intervener has got 67.14% marks whereas the percentage of marks obtained by the applicant in the H.S.C. Examination is 50%. In view of this it is held that intervener has been rightly selected and appointed to that post.

For the reasons discussed above we hold that the applicant has not been able to make out a case for any of the relief prayed. The application is therefore, held to be without any merit and the same is rejected, but without any order as to costs.

.....
 (G. NARASIMHAM)
 MEMBER (JUDICIAL)

Somnath Som
 (SOMNATH SOM)
 VICE-CHAIRMAN
 196.2 100

B.K.SAHOO//