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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 221 OF 1999
Cuttack, this the 20th day of April, 2004

Shri Budhia Kisku

Applicant

Vrs.

Union of India and others

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? Yes

J. Mohanty
(M.R. MOHANTY) 20/04/04
MEMBER(JUDICIAL)

B.N. Som
(B.N. SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

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Shri Budhia Kisku, aged about 23 years, son of Sri Fagaram Kisku, resident of village Chandabila, P.O.Mantunia, P.S.Raibania, Via Hatigarh, District Balasore

Applicant

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Advocates for the applicant - M/s B.Baug, N.N.Mohapatra, B.Das, P.K.Das and O.N.Ghosh.

Vrs.

1. Union of India, represented through the Post Master General of Post Offices, Bhubaneswar Circle, Bhubaneswar, District Khurda.
2. Superintendent of Post Offices, Balasore, At/PO/Munsifi Balasore, District Balasore.
3. Sub-Divisional Inspector, Postal, Jaleswar, District Balasore.
4. Shri Budhia Soren, aged about 22 years, son of not known
5. Mochiram Murmu, aged about 23 years, son of Kade Murmu.
6. Shansar Marandi, aged about 24 years, son of Liba Marandi,

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3. Sl.Nos.4 to 6 are residents of village/PO Mantunia, P.S.Raibania,
Via Hatigarh, District Balasore.

..... Respondents

Advocate for the Respondents - Mr.S.B.Jena, ASC.

ORDER
SHRI B.N.SOM, VICE-CHAIRMAN

Shri Budhia Kisku has filed this Original Application challenging the decision of Respondent No.2 for not finding him suitable for appointment as Extra Departmental Branch Post Master (EDBPM, for short), Munutunia Branch Post Office.

2. The case of the applicant is that he had applied for the post of EDBPM, Munutunia Branch Post Office, in response to the vacancy notification dated 25.5.1998 (Annexure 2) issued by Respondent No.2 and again the vacancy circular dated 19.3.1999 (Annexure 6) and though he ^{had} secured highest marks among all the candidates and he belonged to ST community for which category the post was reserved and he had given a written willingness of an individual of Munutunia village to provide accommodation for the post office he was not selected.

3. The departmental Respondents by filing a detailed counter have contested the Original Application on all counts. They have stated that the selection to the post of Munutunia Branch Post Office was carried out strictly according to the Recruitment Rules and the procedure laid down for this purpose. The vacancy was notified in ~~the first instance~~ both to the Employment Exchange, Jaleswar, as well as notified locally. The post was

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notified for the reserved category. In response to the advertisement, thirteen candidates had filed their applications and the candidature of the applicant was found to have fulfilled minimum requirement for the post except that he had not submitted written consent of the person who was willing to provide him accommodation for housing the post office as he did not belong to the post village. As this was an essential condition for selection of the candidate for the post, the departmental Respondents had asked the applicant to intimate the particulars of the accommodation he had hired/intended to hire for housing the Branch Post Office along with the consent letter of the house owner. On receipt of the reply from the applicant, the matter was enquired into by Respondent No.3 contacting one Shri Subash Chandra Ghose, the owner of the proposed house. On a spot enquiry of the proposed accommodation for housing the post office, Respondent No.3 did not find it suitable because the accommodation offered was a mud built one, dark and was also the common passage into the house. Further, the house owner had expressed the intention of constructing a separate room for use of the applicant later, but he had also disclosed that the piece of land on which he was willing to construct the new structure was a part of joint family property. Having regard to these facts and issues of the matter, Respondent No.3 did not recommend the case and the applicant was disqualified as not having fulfilled the residency condition. Thereafter, a fresh notification was issued in response to which 9 candidates applied including the applicant. From among the candidates one Sri Muchiram Murmu was found to have fulfilled all the requirements for the post. However

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as the applicant ^{had} ~~secured~~ higher marks in H.S.C. than Shri Murmu, his candidature was again sent to Respondent No.3 for verification of his residential qualification. The applicant had submitted a consent letter again from Sri Subash Chandra Ghose, the earlier house owner. On fresh enquiry with Shri Ghosh, Respondent No.3 learnt that the consent letter dated 28.10.1998 given by the latter had become inoperative as he was no longer willing to offer any accommodation for the post office and a declaration to this effect was submitted by him on 10.5.1999 to Respondent No.3 (Annexure R/6). As again the applicant was unable to fulfil the residency qualification, Respondent No.2 selected the next best candidate in terms of merit, i.e., Muchiram Murmu who had offered accommodation which was found suitable for the purpose of the post office.

4. Private Respondent Nos. 4 to 6, though noticed, neither appeared nor filed counter.

5. We have heard the learned counsel for both the parties and have perused the records placed before us.

6. The applicant has not raised any substantial legal issue for our consideration. From the facts of the case, we find that it was because of his inability to offer a suitable accommodation for housing the post office; the post had to be advertised for the second time. On the second occasion also he was given the first option to fulfil all the conditions for appointment to the post of EDBPM, Munutunia Branch Post Office and it was on account of his inability to offer a suitable accommodation for housing the post office he could not be

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selected. In selecting the candidate for the post of EDBPM, Munutunia Branch Post Office, we find that the Respondents had gone strictly in terms of Paragraph 3 (iii) of the Ministry of Communications, Department of Posts' letter dated 6.12.1993. It is the fact of the matter that the applicant in spite of repeated opportunities being given could not fulfil the residential qualification for the post. It is also not in dispute that the residency qualification is inviolable. Rightly, therefore, he was not selected for the post as he could not pass that test. In this view of the matter, we see no merit in this Original Application which is accordingly disposed of. No costs.


(M.R. MOHANTY)

MEMBER(JUDICIAL)


(B.N. SOM)

VICE-CHAIRMAN

AN/PS