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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 228 OF 1999
Cuttack, this the 18th day of February, 2002.

UMAKANTA SWAIN.

....

APPLICANT.

: VERSUS :

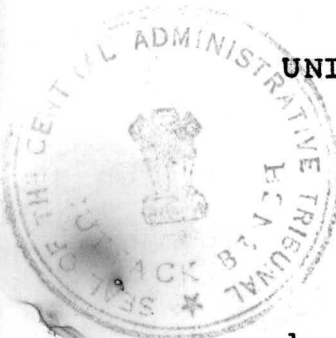
UNION OF INDIA & ORS.


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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


(MANORANJAN MONMANTY) 18/02/2002
MEMBER (JUDICIAL)


(S. A. TERI ZVI)
MEMBER (ADMN.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 228 OF 1999
Cuttack, this the 13th day of February, 2002.

C O R A M:

THE HONOURABLE MR. S. A. T. RIZVI, MEMBER (ADMN.)

AND

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDL.).

..

SHRI UMAKANTA SWAIN, Aged about 29 years,
S/o. Sri Rama Chandra Swain, resident
of Nagapur, PS; Balikuda,
Dist; Jagatsinghpur.

.... Applicant.

By legal practitioner: M/s. B. K. Mohanty, P. K. Bhuyan,
S. K. Patnaik, Sk. Q. Ahemad,
Mrs. R. Mohanty, Advocates.

:Versus:

1. Union of India represented through its Secretary,
Government of India, Ministry of Communication,
New Delhi-110 001.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar.
3. Superintendent of Post Offices, Cuttack South Division,
Cantonment Road, Cuttack.
4. Assistant Superintendent of Post Offices (I/C),
Jagatsinghpur Sub-Division, Jagatsinghpur-3.
5. Sri Narahari Tarai, EDMC, Galadhari Branch Post Office,
Via. Debidol, District-Jagatsinghpur.

.... Respondents.

By legal practitioner : Mr. S. Behera, Additional Standing Counsel.
for Respondents 1 to 4.

M/s. Pradipta Mohanty, D. N. Mohapatra,
G. S. Satpathy, Smt. J. Mohanty,
for Respondent No. 5.

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O R D E R

(ORAL)

MR. S. A. T. RIZVI, MEMBER (ADMN.) :

Heard Mr. B. K. Mohanty, learned Counsel for the Applicant and Mr. S. Behera, learned Additional Standing Counsel (Central) appearing for the Respondents at length.

2. The post of E. D. M. C. Galadhari Branch Post Office fell vacant on 4.2.1998 due to the retirement of the regular incumbent. This led to the issuance of a letter to the District Employment Exchange for sponsoring names of suitable candidates having the qualification of VIIIth standard pass. 40 (forty) candidates were accordingly sponsored. Out of them 19 candidates including the applicant in the present Original Application formally applied within the stipulated period of time. In addition 22 other outsider candidates had also applied. Taking these also into account, the Respondents proceeded to make the selection in accordance with rules. The applicant's name was sponsored by the Employment Exchange.

3. Learned Counsel appearing on behalf of the Applicant submits that the applicant had scored highest percentage of marks in his matriculation examination and therefore, he deserves to be appointed in place of Respondent No. 5 who has eventually been appointed. Learned Counsel relies on the relevant Recruitment Rule which provides as under:

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*EDUCATIONAL QUALIFICATIONS:

ED Delivery Agents,
ED Stamp Vendors and
All other categories
of EDAs;

VIII standard. Preference
may be given to the
candidates with Matriculation
qualifications.xx xx*

Learned counsel appearing on behalf of the Respondents has taken us through the counter filed on behalf of the Respondents. The Respondents, we find, have supported the case of the Applicant by stressing that the applicant having secured the highest percentage of marks in his Matriculation examination, should have been preferred in terms of the aforesaid Recruitment Rule. He has also pointed out that the present Applicant is already working as a regular EDMC at Palasole BO, to which post he secured an appointment by virtue of an order passed by this Tribunal in OA No.227/1999.

4. We have considered the submissions made by learned counsel. After perusing the aforesaid Rule carefully we find that the same has been incorrectly applied by the Respondents. Giving of preference to candidates with matriculation qualifications, in our view, should mean that, all things being found to be equal, by judging the relative merits of candidates on the basis of VIIIth standard pass, those were to be preferred as held, additional qualification of matriculation pass. This is not, how the aforesaid Rule has been applied by the Respondents. On a perusal the statement placed at Annexure-R/4 we notice that the Respondents have completely ignored the prescribed qualification of VIIIth standard pass and have gone ahead with the selection apparently on the basis of the results of the Matriculation examination.


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By ignoring the prescribed qualification of VIII standard pass, the Respondents have, in our judgment, committed a serious mistake. The selection made by them, is therefore illegal and deserves to be quashed.

5. In the light of the foregoing, the selection of Respondent No. 5 is annulled. The Respondents are directed to ~~do~~ do the entire exercise once again by taking into account the prescribed qualification of VIII standard pass in respect of the same candidates who were considered by them in the aforesaid selection.

6. In view of this, the applicant is not entitled to any relief at our hands.

7. The Original Application is accordingly disposed of in the aforesaid stated terms. No costs.


Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 18/02/2002

S.A.T. Rizvi
(S.A.T. RIZVI)
MEMBER (ADMN.)

KNM/CM.