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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.266 OF 1999  
Cuttack this the 25th day of July/2000

Udayanath Barik & Another ... Applicants

-VERSUS-

Union of India & Others ... Respondents

(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)

*Sumnath Soni*  
(SUMNATH SONI)  
VICE-CHAIRMAN *7.2.00*

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.266 OF 1999  
Cuttack this the 27th day of July/2000

CORAM:

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

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1. Udayanath Barik, aged about 29 years,  
S/o. Baikunthanath Barik, At/PO: Padhanpada  
Via - Banth, Dist - Bhadrak
2. Anant Chanan Prusty, aged about 34 years  
S/o. Krushna Charan Prusty, At/PO: Bangara Padi  
Dist - Bhadrak

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Applicants

By the Advocates

Mr. P.C. Das

-VERSUS-

1. Union of India represented through the  
Secretary, Ministry of Postal & Telegram  
Dak Bhawan, New Delhi
2. Superintendent of Post Offices,  
Department of Post India,  
At/PO/Dist - Bhadrak
3. Sudhansu Shekhar Sahu,  
At/PO: Padhanpada Via: Banth  
Dist : Bhadrak

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Respondents

By the Advocates

Mr.S. Behera,  
Addl.Standing Counsel  
(Central)  
( Res. 1 and 2 )

...

*J. Som.*

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: This Original Application was filed by two applicants. But in order dated 4.6.1999, the application was admitted only in respect of applicant No. 1 as a joint application under Section 15 of the A.T. Act was not filed. In this application the applicant has prayed for quashing the appointment of Res.3 to the post of Extra Departmental Branch Post Master, Padhanpada Branch Office in account of Banth S.O. under Bhadrak Head Office. It is not necessary to repeat the averments made by the applicant in the O.A. in support of his prayer for quashing the appointment of Res.3 as also the averments made by the departmental respondents in their counter because these will be referred to at the time of discussing submissions made by the learned counsel for both sides. The departmental respondents have filed counter opposing the prayer of the applicant.

2. Private Res.3 was issued with notice, but he did not appear nor filed any counter.

3. The admitted position is that for filling up of the post of E.D.B.P.M., Padhanpada B.O. a selection process was undertaken in which both the applicant and Res.3 were considered. Respondent 3 was selected and given appointment. It is ~~xxx~~ necessary to note that the post was reserved for candidate belonging to Scheduled Tribe and it was also provided that in the absence of three persons belonging to S.T. applying for the post the post will be filled up by O.B.C. candidate and in the absence of three persons belonging to O.B.C. by candidate belonging to S.C.. The applicant has challenged the selection of Res.3 firstly on the ground that Res.3 obtained income certificate by fraud and he has ~~impeached~~ <sup>included</sup> his grandfather's property to show his income which is not in accordance with the rules. The second ground is that Res. 3

has not furnished School Leaving Certificate/College Leaving Certificate to show his educational qualification. Besides the above, learned counsel for the petitioner has also submitted during hearing that Res.3 did not submit his Caste Certificate.

4. We have heard Shri P.C.Das, learned counsel for the petitioner and Shri S.Behera, learned Addl.Standing Counsel appearing for the departmental respondents and also perused the records.

5. The first point to be noted is that submission of the learned counsel for the petitioner that Res. No.3 did not enclose his O.B.C. certificate along with his detailed application has not been averred in the Original Application. Therefore, the respondents have been denied opportunity to specifically counter this point. In view of this, this objection now made for the first time during hearing of the O.A. cannot be taken note of. In any case the departmental respondents in their counter have submitted that both the applicant and Res.3 belong to O.B.C. This averment made by the departmental respondents in their counter has not been denied by the applicant by filing any rejoinder. In view of this on merits also we hold that this submission is liable to be rejected. The departmental respondents in their counter have pointed out that in response to the requisition to the employment exchange and further notice to the sponsored candidates to file detailed applications with necessary documentations five persons applied for the post. In response to public notice seven other persons applied. Amongst <sup>12</sup> persons there was not candidate belonging to S.T. community. As a result the post was opened to be filled up by a person belonging to O.B.C. category. Respondents have stated that out of 12, 7 applicants including petitioner and Res.3 belong to O.B.C. category and their cases were taken

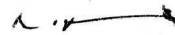
up for consideration. It is further stated that candidature of one person viz. Sk.Kadam was rejected as it was found that his O.B.C. certificate is not genuine. Candidatures of two other persons were also rejected on the ground which do not concern us in the present application. Of the rest it was found that Res.3 has got the highest percentage of marks in the H.S.C., i.e. 51.57% whereas applicant has got 42.85% marks. As Res. 3 has got highest percentage of marks he was adjudged the most meritorious and given appointment. As regards contention that income certificate of Res.3 has been obtained by fraud and he has <sup>included</sup> ~~imposed~~ the property held jointly with his grandfather, respondents have pointed out <sup>Jjm</sup> and <sup>Jjm</sup> that this is also borne out by the records that Res.3 has got 67 Dec. of land in his name independently. As regards Res.3 obtaining income certificate by fraud this is not borne out by the enclosures filed by the applicant himself from which it appears that income certificate was issued after due enquiry in the Tahasildar Office by the R.I and superior officers. This contention is therefore held to be without any merit and the same is rejected.

Last contention of the petitioner is that applicant did not enclose S.L.C. as was required as per Annexure-A/1. Respondents have pointed out that Res.3 had furnished his School Leaving Certificate (H.S.C. Pass certificate) copy of which has been given at Annexure-R/4. This indicates that he has passed H.S.C. Examination. He had also enclosed the marksheet. As he has submitted High School Pass Certificate this is equivalent to S.L.C. School Leaving Certificate is given to those who seek transfer from the School in the midst of the study or at the end of one academic session. Here Res.3 has passed from a particular School. <sup>Jjm</sup> passing the /High School Certificate Examination and giving this certificate.

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is held to be sufficient compliance with the requirement of the respondents. In view of the above we hold that applicant is not entitled to any of the reliefs prayed by him and the Departmental respondents have rightly selected Res. 3 to the post of E.D.B.P.M., Padhanpada B.O.

In the result, the application is held to be without any merit and the same is rejected, but without any order as to costs.

  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

  
(SOMNATH SOM)  
VICE - CHAIRMAN  
25.7.2000

B.K.SAHOO//