

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 328 OF 1999

Cuttack, this the 14th day of September, 2000

kshirod Chandra Mohanta 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? NO -

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(Signature)
(SOMNATH SOM)
VICE-CHAIRMAN
14/9/2000

9

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CORAM:

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

.....
Kshirod Chandra Mohanta, aged about 36 years, son of Shri
Goura Chandra Mohanta, village/PO-Kankada, Via-Turumunga,
Dist-Keonjhar.... Applicant

Advocates for applicant - M/s S.K.Patri
P.Mishra
B.Nath
S.K.Patnaik

Vrs.

1. Union of India, represented through its Chief Post Master General, Bhubaneswar, District-Khurda.
2. Director, Postal Services, Sambalpur.
3. Superintendent of Post Offices, Keonjhar Division, Keonjhar.
4. Assistant Superintendent-in-charge, Keonjhar East Sub-Division, Keonjhar
..... Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

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In this application the petitioner has prayed for quashing the notification dated 16.6.1999 at Annexure-5 and to direct the respondents to give appointment to the applicant as EDBPM, Kankada.

2. The applicant has stated that in response to the notification dated 21.4.1998 at Annexure-1 he applied for the post of E DBPM, Kankada. It is to be noted that this letter dated 21.4.1998 at Annexure-1 is not a public notice inviting applications. This is a notice to the applicant to apply for the post because his name has been

10

sponsored by the Employment Exchange. Again a notification dated 26.5.1998 (Annexure-2) was issued for the same post inviting applications. The applicant has stated that the second notification became necessary because only one candidate from SC community applied in response to the first notification. In this notification it was clearly stated that if no SC candidates are available, the post would be declared as unreserved. The petitioner applied and his application was scrutinised and he was found suitable. In the letter dated 17.7.1998 at Annexure-3 the applicant was directed to undergo induction training from 19.7.1998 to 22.7.1998, and accordingly the applicant underwent training. But no appointment letter was issued to him. While the situation stood thus, a third notification dated 16.6.1999 at Annexure-5 was issued for the same post. In the context of the above facts the applicant has come up with the prayers referred to earlier.

3. The respondents have stated that initially names were called from the Employment Exchange for the post of EDBPM, Kankada with specific mention that preference would be given to SC candidates. The persons sponsored by Employment Exchange were asked to submit their applications. But as the Employment Exchange did not sponsor three SC candidates, the notification dated 26.5.1998 (Annexure-2) was issued inviting applications from SC candidates. From both these sources six applications were received including that of the applicant. The respondents have pointed out that as per Director General, Posts' letter at Annexure-R/2 at least three applications are to be received from candidates belonging to the community for which reservation is made. But as only one application of one SC candidate was received, it was decided to make selection from

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the available eligible candidates and to get approval from the next higher authority. The applicant was accordingly provisionally selected and sent for training, and the selection file was submitted to the Director, Postal Services, Sambalpur (respondent no.2) for approval of the selection of the applicant. In the meantime the only SC candidate Kamalakanta Patra filed a case before the Tribunal in OA No.401 of 1998 praying for his selection. Respondent no.2 went through the process of selection and OA No.401/98 and reviewed the matter. Respondent no.2 cancelled the selection process and ordered for issuing fresh notification in letter dated 8.6.1999 at Annexure-R/3. On receipt of the said direction fresh notification was issued on 16.6.1999 (Annexure-3) treating the vacancy as unreserved. The respondents have stated that the petitioner has applied in response to the third notice also. On the above grounds they have opposed the prayers of the applicant.


4. We have heard Shri S.K.Patri, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have also perused the records.


5. The admitted position is that initially it was indicated that preference would be given to SC candidates and accordingly this was mentioned in the requisition to the Employment Exchange. The candidates who were sponsored by the Employment Exchange were asked to submit detailed applications with necessary documentation. But only one SC candidate applied. Therefore, the second notification dated 26.5.1998 was issued calling for applications from the general public. In this notice it was also mentioned that preference would be given to suitable candidates belonging to SC category. It was also mentioned that if no SC candidates

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are available, then the post will be treated as unreserved. In response to the second notice only one SC candidate applied and therefore the Superintendent of Post Offices rightly treated the vacancy as unreserved. Amongst all candidates including the petitioner and the lone SC candidate, the petitioner got the highest percentage of marks and he was therefore rightly selected and sent for training. As in the notification dated 26.5.1998 it was specifically mentioned that if adequate number, i.e., 3 SC candidates do not apply, then the post would be treated as unreserved. There was no necessity for issuing a fresh notification treating the post as unreserved. We have therefore no hesitation in quashing the notification dated 16.6.1999 and direct the respondents to give effect to the provisional selection made of the applicant in response to which he has already undergone training. This action should be completed within a period of 60 (sixty) days from the date of receipt of copy of this order.

6. In the result, therefore, the Original Application is allowed but without any order as to costs.?


(G. NARASIMHAM)
MEMBER (JUDICIAL)


(SOMNATH SOM)
24.9.2000
VICE-CHAIRMAN

14th September, 2000/AN/PS