

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 356 OF 1999.

Cuttack, this the 17th day of May, 2000.

DUSMANTA KUMAR SAHOO.

....

APPLICANT.

- VERSUS -

UNION OF INDIA & 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.*

Jasir
(J. S. DHALIWAL)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
11.52.2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 356 OF 1999.
Cuttack, this the 17th day of May, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. J. S. DHALIWAL, MEMBER (JUDL.)

... . .

DUSMANTA KUMAR SAHOO,
Aged about 22 years,
Son of Kashinath Sahoo,
resident of Mukundapur,
PO: Seragada, PS: Dharmasala,
Dist: Jajpur.

....

APPLICANT.

By legal practitioner: M/s. D. N. Mishra, S. K. Panda, Advocate.

VERSUS -

1. Union of India represented through Secretary,
Department of Posts and Telegraph, Central
Secretariat, New Delhi.
2. Chief Postmaster General,
Orissa Circle, Bhubaneswar,
Dist: Khurda.
3. Superintendent of Post Offices,
Cuttack North Division, Cuttack-1.
4. Bichitrananda Nath,
S/o. Sudarsan Nath,
At. Talajangha,
Po. Balarampur Talagarh,
Via. Jenapur,
District. Jajpur,
Pin- 755023.

....

RESPONDENTS.

S. J. Das
By legal practitioner: Mr. J. K. Nayak, Additional Standing
Counsel (Central) for Respondents
1 to 3.

M/s. S. K. Das, R. N. Mishra-II for Res. No. 4.

. . .

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section,19 of the Administrative Tribunals Act,1985, the applicant has prayed for quashing the offer of appointment issued in favour of Respondent No. 4 and for a direction to the Departmental Respondents to issue offer of appointment in his favour.

2. Applicant's case is that on 10.2.1998, the Departmental Respondents issued a notification inviting applications for the post of E.D.B.P.M., Balarampur Talagarh Branch Post Office fixing the last date as 12.3.1998. The post was meant for ST community and it was further directed that if three candidates from ST community are not available, then the post will be offered to OBC and thereafter to SC community failing which to general category candidate. Applicant submitted his application but he came to know that another person has been selected. He thereafter, approached the Tribunal in OA No. 37 of 1999 with a prayer for considering his case. While the matter was pending another notification was issued on 28.3.99 calling for applications. In this also the post was reserved for ST community failing which for OBC and then SC community. Petitioner again applied and also furnished documents with regard to the rent free accommodation but he came to know that even though he has got 419 marks in HSC examination Res. No. 4 who has got 412 marks has been selected. In the context of the above facts, the applicant has come up in this Original Application with the prayer referred to earlier.

3. Departmental Respondents, in their counter have stated that initially the Employment Exchange sent 40 names out of

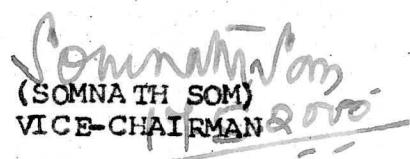
which 12 candidates applied for the post but none of the candidates were found eligible and therefore, open advertisement was issued on 10.2.1998. In response to such open advertisement, 14 candidates had applied out of whom, there was no candidate of ST community. There were only two OBC and three SC. As for filling up of the post, atleast three candidates of a particular community is required, a fresh notification was issued. Respondents have mentioned that the applicant who had applied in response to the first notice came to the Tribunal in OA No.37 of 1999 which is still pending. Documents of all the eligible candidates were verified. ^{The applicant} had earlier indicated that one Debendra Patnaik had offered his premises to the applicant for functioning of the Branch Post Office but at the time of local enquiry on 8.5.99, Shri Debendra patnaik declined to give his premises to the applicant for holding the post office. Applicant was allowed 15 days time and during that period, he offered the house of Shri B.B.Mishra for holding the post office but this offer was rejected on the ground, as mentioned in the counter, that the said house of BBMishra is a joint family house and not the house owned by BB Mishra alone. Respondents have also stated that in view of this, the candidature of the applicant was not considered and the next person Respondent No. 4 who according to the Respondents has got more or less same marks was selected. Instructions of DGP&T provide that amongst the eligible candidates person who has got highest marks is to be considered as more meritorious and here, the applicant has got 419 marks in the HSC examination whereas Res.No. 4 has got 412 marks in the HSC examination. Therefore, it is clear that the applicant is more meritorious than Respondent No. 4, as per the circular of the DG(Posts). As regards the action of the Respondents to cancel his candidature because the house offered by him is a joint family

house, there is no instruction in the Department to the effect that a post office can not be held in a rented joint family house. In view of this, it is clear that the rejection of the candidature of the applicant on this ground is without any basis and can not be upheld. It is also noted that because of this rejection, Respondent No. 4 has been selected even though he has got less marks than the applicant in the HSC examination. In view of this, we have no hesitation to quash the appointment of Respondent No. 4 and direct the Departmental Authorities to consider the candidature of the applicant. It is also to be noted that the selected candidate for the post of EDBPM has to undergo training. In case the appointment order is issued in favour of the applicant, he should provide a house for holding the post office during his period of training so that immediately after the training is over, the post office can function effectively.

4. In the result, in terms of the observations and directions made above, the Original Application is allowed. No costs.


J.S. DHALIWAL
MEMBER (JUDICIAL)

KNM/CM.


Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
2000