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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 376 OF 1999.

Cuttack, this the 14th day of October, 1999.

Aswin Kumar Lenka. ... Applicant.

Vrs.

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som,
(SOMNATH SOM)
VICE-CHAIRMAN
17.10.99

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 376 OF 1999.

Cuttack, this the 14th day of October, 1999.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).

Aswini Kumar Lenka,
Aged about 22 years,
Son of late Abhimanyu Lenka,
At. Kuanarpur, Po. Bhera, Cuttack. ... Applicant.

By legal practitioner : Mr. T. Rath, Advocate.

- Vrs. -

1. Union of India represented through
Chief Postmaster General, Orissa Circle,
Bhubaneswar-1.
2. Superintendent of Post Offices,
Cuttack North Division, Cuttack-1.
3. The Sub Divisional Inspector (Postal),
Salipur, Sub Division, Salipur, Dist. Cuttack.

... Respondents.

By legal practitioner: Mr. B. K. Nayak, Additional Standing
Counsel (Central).

SJm

ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents to consider the candidature of applicant alongwith other sponsored candidates for the post of EDDA, Kumudajaipur, Extra Departmental Sub Post Office.

2. For the purpose of considering this original Application, it is not necessary to go into too many facts of this case. It is only necessary to note that for the post of EDDA, Kumudajaipur Extra Departmental Sub Post Office, after superannuation of the original incumbent, requisition was sent to the Employment Exchange and certain names were sponsored by the Employment Exchange. Applicant directly made an application to the Departmental Authorities but he has learnt that his case is not going to be considered as his name has not been sponsored by the Employment Exchange. In view of this, he has approached this Tribunal with the prayer referred to earlier.

3. Respondents in their counter have not contested the factual position. They have merely stated that in pursuance of the decision of the Hon'ble Supreme Court in the case of Excise Supdt. Malkapatnam, Krishna District, AP. Vrs. K. B. N. Visweswar Rao and others reported in 1996(6) Scale 676 & 1996(6) SCC 216, the Director General of posts has issued instruction on 13.8.1998 that alongwith calling for names from the Employment Exchange, a public notice

S. J. M

should be issued inviting applications from general public. In the Circular of the DG, it has been made clear that this new procedure will be adopted in the cases, where the selection process had not already been initiated. Respondents' case is that as in this case requisition to the Employment Exchange was sent on 5.5.1997, this case is not covered under the DG's circular and therefore, they have indicated that they are not obliged to consider the candidature of applicant. On the above grounds, Respondents have opposed the prayer of applicant.

4. We have heard Mr. T. Rath, learned counsel for the applicant and Mr. B. K. Nayak, learned Additional Standing Counsel appearing for the Respondents and have perused the records.

5. Even though that circular of the DG posts came on 19.8.1998 and the circular did provide that this will be made applicable only in case of selections which are initiated after that date it has to be noted that the decision of the Hon'ble Supreme Court came sometimes in 1996, prior to initiation of the Selection process in this case. In the above case, the Hon'ble Supreme Court have indicated that alongwith getting names from Employment Exchange, public notice should also be issued and applications received directly should also be considered alongwith the names sponsored by the Employment Exchange. In view of the above, the law as laid down by the Hon'ble Supreme and the directions with regard to filling up of the Civil posts became operative from the date the decision have been pronounced by Their Lordships of the Hon'ble Supreme Court.

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Moreover, the prayer of applicant is only for consideration. In view of this, we dispose of the original Application with a direction to the Respondents that alongwith the names sponsored by the Employment Exchange, the candidature of the applicant should also be considered strictly in accordance with rules. The above direction is subject to the condition that the applicant has submitted his application before the last date of receipt of the application from the candidates sponsored by the Employment Exchange. We make it clear that we are expressing no opinion about the merit of the applicant. The Authorities are free to take their decision with regard to the selection of candidates as per rules.

6. With the above observations and directions, the original Application is disposed of. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
10.99

KNM/CM.