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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 378 OF 1999
Cuttack this the 10th day of November /2000

M.V. Raman

...

Applicant(s)

-versus-

Union of India & Others ...

Respondent(s)

(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
(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som,
(SOMNATH SOM)
VICE-CHAIRMAN
10/11/2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 378 OF 1999
Cuttack this the 10th day of November/2000



CORAM:

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

...

Sri Malaredy Venkat Raman, aged about 29 years
S/o. Sri Malaredy Krishnamurty of Village/PO:
Kittangi, Via/PS - Kashinagar, Tahasil-Parala-
khemundi, Dist - Gajapati

...

Applicant

By the Advocates

M/s.P.K.Mishra
Prativa Mishra
S.C.Patnaik

-VERSUS-

1. Union of India represented by its Secretary through Director General of Posts, Department of Post, Dak Bhawan, New Delhi-1
2. Chief Post Master General, Orissa Circle, At/PO - Bhubaneswar-1, Dist - Khurda
3. Senior Superintendent of Post Offices, Berhampur (GM) Division, At/PO:Berhampur Dist - Ganjam
4. Sub-Divisional Inspector of Post Offices, Paralakhemundi (West), At/PO - Paralakhemundi Dist - Gajapati, PIN - 7612000
5. Ram Mediboina, S/o. Mediboina Lakshmana Rao Ward No. II, Home No.182 (near Forest Colony) N.A.C. Area, Kasinagar, Dist - Gajapati

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Respondents

By the Advocates

Mr. B.K.Nayak
Addl. Standing Counsel
(Central)

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: Aggrieved by his non-selection and selection of Respondent No.5 to the post of Extra Departmental Branch Post Master, Kittangi Branch Office, the petitioner has come up in this Application with the prayer for quashing the selection of Respondent No.5 for the said post and for issue of direction to respondents to issue appointment order in his favour. Respondents (Department) have filed their counter opposing the

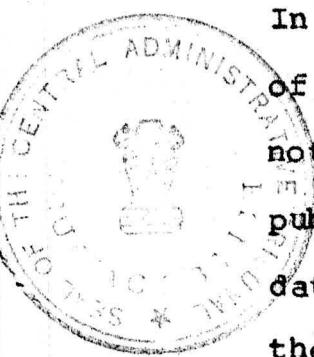
prayer of the applicant and applicant has filed rejoinder.

2. For the purpose of considering this Application it is not necessary to go into too many averments made by the parties in their pleadings. These will be referred to while considering the submissions made by the learned counsel for both sides.

3. We have heard Mrs. P. Mishra, the learned counsel for the applicant and Shri B.K. Nayak, the learned Additional Standing Counsel appearing for the Departmental Respondents and also perused the records.

4. Before considering the submissions made by the learned counsel of both sides, the admitted facts of the case which can/briefly be stated, are that a vacancy in the post of E.D.B.P.M., Kittangi Branch Office arose on superannuation of the original incumbent and requisition was sent to the Employment Exchange and public notice was issued simultaneously inviting applications. In response to that 20 candidates came up and on consideration of their cases it was found that three eligible candidates were not available in the zone of consideration. Accordingly a fresh public notice was issued inviting applications fixing the last date of receipt of applications to 12.5.1999. In response to the 2nd public notice four applications were received including that of petitioner and Respondent No.5 and in the process Respondent No.5 was selected. The grounds on which selection of Respondent No.5 to the post of E.D.B.P.M., Kittangi has been challenged are discussed below.

5. It has been submitted by the learned counsel for the petitioner that in the 1st notice it was mentioned that the selected candidate must be a resident of Kittangi Village. It



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is further stated that Respondent No.5 is not a resident of Kittangi Village. In some documents it has been mentioned that Respondent No.5 resides in Kittangi and in some other documents he has been described as a resident of Buthava. It is further submitted that Respondent No.5 is a student of S.K.C.G. College and is a resident of Kashinagar N.A.C. area. Law is well settled that for the purpose of selection to the E.D.B.P.M. the selected candidate need not be a resident of the post village. This requirement has been done away with long ago and the present instructions of the Department provide that the selected candidate may be a resident of any village, but after selection he would be required to take up the residence in the Post-village and offer rent free accommodation for holding the post office. In view of this, this contention of the learned counsel for the petitioner is held to be without any merit and the same is, therefore, rejected.

The 2nd contention of the learned counsel for the petitioner is that Respondent No.5 applied pursuant to 1st public notification and submitted an unregistered Sale Deed and the first selection was cancelled only for the purpose of giving him an opportunity to acquire the Registered Sale Deed. We note that in the process of first selection where the applicant was also a candidate, ~~.....~~ and ~~.....~~ had submitted an income certificate in the name of his father. Respondents have pointed out that most of the candidates in the first selection were ineligible and three eligible candidates were not available amongst whom as per rule, selection could be made. In view of this it cannot be said

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that selection was cancelled only for the purpose of providing an opportunity to Respondent No.5 to make a fresh application complete in all respects. This contention of the learned counsel for the petitioner is held to be without any merit and the same is, therefore, rejected.

The third contention of the learned counsel that between applicant and Respondent No.5, petitioner has larger source of income and larger property, and therefore, he should have been selected. This contention of the learned counsel is also without any merit because rules merely provide that eligible candidate must have independent means of livelihood. There are instructions of D.G.Posts that selection should not be made only the ground of a person having larger income. On the other hand rules specifically provide that person securing highest percentage of marks in the H.S.C. Examination should be considered most meritorious. From the check list enclosed to counter vide Annexure -6 filed by the departmental respondents we find that the applicant has got 36.71% of marks in the H.S.C.Examination whereas the selected candidate (Respondent No.5) has got 40.11% of marks. Respondent No.5 having secured the highest percentage of marks amongst all the candidates has been rightly selected by the departmental authorities. We, therefore, find no illegality or irregularity committed by the departmental respondents in selecting Respondent No.5 to the post of E.D.B.P.M. Kittangi Branch Office. It has also to be noted that selection of Respondent No.5 was challenged by another candidate in the selection pursuant to 2nd notification in O.A.399/99 disposed of in order dated 12.9.2000 by this Tribunal. In that order we have upheld the selection of Respondent No.5 in the present



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Original Application to that post. In view of the above we hold that the present Application is without any merit and the same is, therefore, rejected, but without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//



Somnath Som,
(SOMNATH SOM)
VICE-CHAIRMAN /11/2002.