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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 381/99

Cuttack, this the 14th day of August, 2001

Gourahari Sahoo ...

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*

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
14.8.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,
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ORIGINAL APPLICATIN NO. 381 OF 1999
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CORAM:

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

Gourahari Sahoo, aged about 19 years, son of Basanta Kumar Sahoo, At/PO-Nimatpur, Via-Dehurda, District-Balasore
Applicant

Advocates for applicant - M/s Pradipta Mohanty
D.N.Mohapatra
G.Satpathy
Stm.J.Mohanty

Vrs.

Vrs.

1. Union of India, represented through the Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
2. Superintendent of Post Offices, Balasore Division, At/PO/Dist.Balasore.
3. Sub-Divisional Inspector (Postal), Jaleswar Sub-Division, At/PO-Jaleswar, Dist.Balasore.
4. Barendra Mandal, At-Haripur, P.O-Narayanpur, Via-Dehurda, Dist.Balasore.....Respondents

Advocate for respondents - Mr.A.K.Bose
SR.CGSC

O R D E R
SOMNATH SOM, VICE-CHAIRMAN

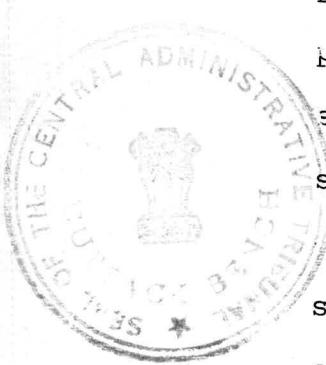
In this O.A. the petitioner has prayed for quashing the selection and appointment of Barendra Mandal (respondent no.4) to the post of EDDA-MC, Nimatpur B.O. and also for a direction to consider the candidature of the applicant and others strictly in terms of the advertisement at Annexure-1 on the grounds set out in the O.A. The respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed. We

have heard Shri G.Satpathy, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents. The learned counsel for the petitioner has filed written note of argument and this has been perused along with the pleadings. Respondent no.4 was issued with notice but he did not appear or file counter.

2. For the purpose of considering this petition it is not necessary to go into too many facts of this case. Admittedly the vacancy in the post of EDDA-cum-MC arose on superannuation of the regular incumbent on 21.9.1998. The Employment Exchange on being requisitioned did not sponsor any name. In response to public notice at Annexure-1 filed by the applicant eleven persons including the petitioner applied within the stipulated date and ultimately respondent no.4 was selected and appointed to the post.

3. The petitioner has challenged the selection of respondent no.4 on the ground that he is not a resident of post village Nimatpur. He has also stated that in the public notice at Annexure-1 it was mentioned that the candidate should be a resident of village Nimatpur and therefore, because of this condition, many persons residing in other villages might not have applied. Secondly, having issued the public notification, the departmental authorities cannot resile from the conditions mentioned therein. The respondents have pointed out that according to the existing instructions which have been issued following Court decisions, residency in the post village is no longer a precondition for consideration of candidature of an applicant. It is only provided now that

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the person selected as EDBPM must take up residence in the post village after selection, and person appointed as EDDA/EDMC must take up residence in any of the villages coming within the delivery jurisdiction of the ED Branch Office. The respondents have pointed out that in the cyclostyled form issued at Annexure-1 it was originally printed that the applicant must be a permanent resident of the post village or any village served by the Post Office in which recruitment is to be made. Before issuing this public notice this clause has been corrected in hand and it has been mentioned: "must be reside in the post village, etc." (sic). This correction has been shown in the copy of Annexure-1 filed by the applicant himself. The respondents have pointed out that what the Sub-Divisional Inspector (Postal) meant was that after selection the person concerned must reside either in the post village or any of the villages served by the Branch Post Office. The law is clear that residency qualification is no longer in existence. The condition in the printed form requiring the applicant to be a permanent resident of the post village or any of the villages within the jurisdiction of the Post Office has been corrected before issuing the notification. But the correction is no so explicit as to provide that after selection the selected candidate must take up residence within the delivery jurisdiction of the Branch Office. The respondents have also pointed out that out of 11 candidates, who applied, as many as 7 were outside the delivery jurisdiction of Nimatpur B.O. As the residency qualification is no longer in existence, this submission of the learned counsel for the petitioner is held to be without any merit and is rejected.

4. The second contention of the learned counsel for the petitioner is that even after selection and appointment, respondent no.4 has not taken up residence in the post village. The respondents have pointed out in their counter and this has not been denied by the applicant by filing any rejoinder that respondent no.4 took up residence in village Bela served by Nimatpur B.O. before his appointment to the post. They have also stated that respondent no.4 could not join his duty at Nimatpur B.O. on 3.7.1999 because of the protest by the villagers and therefore, he was forced to join at Dehurda Sub Office, i.e., the Account Office of Nimatpur B.O. From the above it appears that respondent no.4 has taken up residence in one of the villages served by the Branch Office and therefore, this condition has been fulfilled.

5. From the public notice at Annexure-1 we find that the post was reserved for OBC candidate. From the check-list enclosed by the respondents at Annexure-R/2 we find that all the eleven candidates including the applicant and respondent no.4 belong to OBC. Amongst them, respondent no.4 has secured the highest percentage of marks. The applicant has got 367 out of 700 marks in HSC Examination whereas respondent no.4 has secured 517 marks out of 700.

6. In consideration of all the above, we hold that the O.A. is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
16.8.2001
VICE-CHAIRMAN