

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

**ORIGINAL APPLICATION NO. 390 OF 1999
Cuttack this the 28th day of November/2003**

Dillip Kr. Behera ... Applicant(s)

VERSUS

Union of India & Others .. Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *75*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *150*


(S.N. SOM)

VICE-CHAIRMAN


(BHARATI RAY)
MEMBER (JUDICIAL)

27/11

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 390 OF 1999
Cuttack this the 28th day of November/2003

COURT:

THE HON'BLE MR. B.N. SONI, VICE-CHAIRMAN
AND
THE HON'BLE MRS. BHARATI RAY, MEMBER (JUDICIAL)
...

Dillip Kumar Behera, aged about 20 years,
S/o, Banchhanidhi Behera, Vill- Baligadia
P.O./PS-Jankia, Dist-Khurda

... Applicant

By the Advocates M/s. D.R. Patnaik
M.K. Khuntia

VERSUS

1. Union of India represented by its Sr. Superintendent of Post Offices, Puri Division, Puri
2. Sub-Divisional Inspector of Post, Balugaon Division, At/P.O.-Balugaon, Dist-Khurda
3. Surendra Samantaray, At-Metta, P.O./PS.Jankia
Dist-Khurda

... Respondents

By the Advocates Mr. B. Dash, A.S.C.
(For Res.1 & 2)
M/s. A.A. Das, R.Rath
B.Mehanty, T.K.
Patnaik (Res. No. 3)

ORDER

MRS. BHARATI RAY, MEMBER (JUDICIAL): This Application has been filed by Shri Dillip Kumar Behera (applicant) questioning his non-consideration for the post of Extra Departmental Branch Post Master, Metta B.O.

2. It is the case of the applicant that he has passed H.S.C. Examination in the year 1994 from Bhagabat Dev Bidyapitha, Jankia. He has also passed + 2 Annual

8.

Examination held in the year 1998. The applicant has registered his name in the Junier Employment Office at Khurda on 28.4.1997. The applicant belongs to Scheduled Caste community. In support of his caste, that the applicant belongs to S.C. category, he has enclosed a caste certificate vide Annexure-4 to the O.A. The Senior Superintendent of Post Offices, Puri Division issued a notification dated 23.4.1999 inviting applications in the prescribed preforma from the intending candidates for filling up the post of B.D.B.P.M., Metta B.O. in account with Janika S.O. under Khurda Head Office. In the said notification it was mentioned that preference would be given to ST/SC community depending on descending order subject to fulfilment of other conditions provided that three applications from reserved community were received. The applicant applied for the said post encosing all necessary documents to the above authority. It is the case of the applicant that although he fulfilled all the conditions and it was mentioned in the notification that preference would be given to candidates belonging to SC community, the Respondents-Department without considering his case selected one Surendra Samantaray (Res.No.3) belonging to a general category candidate. The applicant has submitted that non consideration of his case amounts to violation of Articles 14 and 16(1) of the Constitution of India. He has further submitted that the selection is arbitrary and dehors the public policy, and therefore, the same is liable to be quashed/set aside. It is the

further contention of the applicant that Res. No. 3, who belongs to general category has been shown favouritism in the interview in order to accommodate him in the said post. Being aggrieved by the said decision on the part of the Respondents-Department, the applicant has approached this Tribunal seeking an order for quashing the selection and appointment of Respondent No. 3 to the post of E.D.B.P.M., Metta B.O. in account with Janika S.O. under Khurda Head Office.

3. Respondents-Department have contested the application by filing a counter-reply. They have stated that after the preliminary scrutiny of the applications received, the documents in respect of three candidates were sent to Respondent No. 2 for verification and local inquiry, including the documents of the applicant herein. Respondents have enclosed check sheet dated 21.5.1999 which is Annexure-R/1 to the counter, showing the bio data of the applicant. The applications of Sl. Nos. 3 and 5 were not considered for want of documents and the candidate at Sl. No. 6 for want of documents and late receipt of application. It has been submitted by the Respondents-Department that in course of verification the applicant submitted another income certificate from Additional Tahasildar, Khurda, showing his annual income from agriculture as Rs. 11,200/-. It is noted, therefore, disputed that the applicant submitted two income certificates and there was discrepancy in the income mentioned in the certificates inasmuch as in the certificate issued by the Tahasildar Khurda annual income

of the applicant was shown as Rs.1200/- whereas in the income certificate issued by Addl.Tahasildar, Khurda, annual income shown was Rs.11,200/-. It is the contention of the applicant that inadvertently these two income certificates showing different income were issued by the Tahasildar and Addl.Tahasildar, Khurda, respectively and therefore, the Respondents-Department should not have rejected the candidature of the applicant on that ground. However, on going through the counter-reply filed by the Respondents-Department, we find that although the Respondents received three candidates belonging to S.C. community but none of them found fulfilling the basic requirements as stipulated in the notification and therefore, Respondent No.3 having fulfilled all the conditions and having secured the highest percentage of marks in H.S.C. was selected finally and the appointment order issued to him on 27.8.1999 with specific endorsement that his appointment would be subject to outcome of O.A.390/99. We find from the order-sheet dated 30.6.2000, this Tribunal has modified the interim order passed earlier to the extent that appointment of Respondent No.3 to the post of E.D.B.P.M., Metta B.O. would be subject to result of this O.A. It is not the case of the applicant that he secured more marks than the selected candidate (Res.No.3). Learned counsel for the applicant could not be able to explain as to why the applicant submitted two income certificates which income which did not tally each other. It is also not the case of the applicant

18

that the selected candidate (Res. No. 3) did not fulfil all the conditions as stipulated in the notification. That being the position, when admittedly the applicant is not better candidate than Res. No. 3, who has been selected and appointed to the post in question, we do not feel inclined to interfere with the selection made by the Respondents. In this view of the matter, we are of the opinion that the applicant has not been able to make out a case for any of the reliefs prayed for in this S.A. The S.A. being devoid of any merit is dismissed, leaving the parties to bear their own costs.


(B.N. SOM)

VICE-CHAIRMAN


(BHARATI RAY)
MEMBER (JUDICIAL)

EJY/