

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

original Application No. 405 OF 1999.

Cuttack, this the 16th day of August, 2000.

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AN TARJYAMI MISHRA.

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APPLICANT.

- VERSUS -

UNION OF INDIA & ORS.

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RESPONDENTS.

FOR INSTRUCTIONS

1. whether it be sent 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

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 405 OF 1999.
Cuttack, this the 16th day of August, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

SHRI AN TARJYAMI MISHRA, 34 years,
S/o. Laxmi Narayan Mishra,
Vill./Po: Narigam, Via. B. Singhpur,
Dist. : Koraput. ...

APPLICANT.

By legal practitioner: Mr. P. K. Padhi, Advocate.

- Vrs. -

1. Union of India represented by its
Chief Postmaster General (Orissa Circle),
At/Po: Bhubaneswar, Dist: Khurda-1.
2. Director of Postal Services (Berhampur),
At/Po: Berhampur, Dist. Ganjam (O).
3. Senior Superintendent of Post offices,
Koraput Division, At/Po: Jeypore,
Dist: Koraput.
4. P. Anand Rao, EDB PM,
At/Po: Narigam, Via. B. Singhpur,
Dist: Koraput.
5. Gram Panchayat Extension officer,
O/o. Block Development officer,
At/Po: Boriguma, Dist. Koraput. ...

RESPONDENTS.

By legal practitioner: Mr. A. Routray, Additional Standing Counsel.

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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 appointment of Respondent No. 4 and for a direction to the Departmental Authorities to make fresh selection from amongst the existing candidates including applicant and appoint the applicant to the post of EDB PM, Narigam.

Departmental Respondents have filed counter opposing the prayers of Applicant. Selected candidate, private Respondent No. 4 was issued with notice but he did not appear nor filed counter. For the purpose of considering this original Application, it is not necessary to go into too many facts of this case. The admitted position is that for filling up of the post of EDBPM, five candidates including Applicant and Respondent No. 4 were considered. Applicant got 41.57% of marks whereas, Respondent No. 4 has got 36.14% of marks. Respondents have stated that applicant has passed HSC examination compartmentally in the third attempt whereas the selected candidate, Respondent No. 4 has passed matriculation in his first attempt. That is why, Respondent No. 4 has been adjudged more meritorious than the applicant.

2. We have heard Mr. P. K. Padhi, learned counsel for the applicant and Mr. A. Routray, learned Additional Standing Counsel (Central) appearing for the Departmental Respondents and have also perused the records. From the counter of the Departmental Respondents we find that the selected candidate has been described as belonging to SEBC class by the Departmental Respondents for appointment. In Govt. of India post, there is no reservation for SEBC candidates. There is only reservation for ST/SC/OBC. SEBC reservation is only provided under the State Government posts. It is submitted by learned Additional Standing Counsel that the selected candidate has been taken in as a general category and not as a SEBC candidate and he has been selected over the applicant because he has passed matriculation in first chance whereas the applicant has passed matriculation compartmentally in his third attempt. We have considered the above submissions carefully. Instruction of DG of Posts specifically provides that from the eligible candidates, the person who has secured highest percentage of marks in HSC should be adjudged more meritorious. This

instruction do not provide that while adjudging the merit, the number of chances taken by eligible candidate to pass HSC examn. would be a factor for consideration. This Tribunal has also held in several cases that the fact that a person has passed HSC ^{in one channel} compartmentally and another person has passed HSC on regular basis ^{J.Jon.} can also have no bearing because what is to be determined is the marks secured by both of them in the HSC examination.

3. In consideration of the above, we hold that the selection of Respondent No. 4 in the face of candidates having higher percentage of marks can not be sustained and it is accordingly quashed. Departmental Respondents are directed to make fresh selection afresh keeping ^{int} confined to the persons who were under the zone of consideration in the selection in which Respondent No. 4 was selected for the post.

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

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

S. N. S.
(SOMNATH SOM)
VICE-CHAIRMAN
15.8.2000

KNM/CM.