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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 406 OF 1999
Cuttack, this the 4th day of July, 2000

Bikram Keshari Mohanty 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.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
17.7.2000

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CUTTACK BENCH, CUTTACK.

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CORAM:

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

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Bikram Keshari Mohanty, aged about 34 years, son of Baburam Mohanty, At/PO-Kapsi, Via-Niali, Dist.Cuttack.

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Applicant

Advocate for applicant - Mr.D.R.Patnaik

Vrs.

1. Union of India, represented by Senior Superintendent of Post Offices, Cuttack Division, Cuttack.
2. Sub-Divisional Inspector (Post),
Cuttack West Sub-Division, Cuttack.
3. Sabyasachi Lenka, c/o Sub-Divisional Inspector (Post),
Cuttack West Sub-Division, Cuttack

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Respondents

Advocates for respondents - Mr.B.Dash,
ACGSC
&
M/s R.N.Behera
S.K.Nayak
for R-3.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has prayed for quashing the selection for the post of E.D.D.A., Kapsi Branch Office and to direct the departmental respondents to issue appointment letter in his favour.

2. The applicant's case is that his name along with others was sponsored by the Employment Exchange and the applicant was asked by Sub-Divisional Inspector (Post), Cuttack West Sub-Division, Cuttack (respondent no.2) to send application in the prescribed form with necessary documentation. The applicant has stated that he has passed Matriculation in 1983 and IA in 1986 and he belongs to SEBC category. He has stated

that even though he has the eligibility for the post of EDDA his case was omitted from zone of consideration although he is more meritorious and an outsider, who is not eligible, has been considered. In the above context, the petitioner has come up with the prayer referred to earlier.

3. The departmental respondents in their counter have stated that the Employment Exchange on being requested, sponsored 40 candidates including the applicant and all the candidates were asked to make applications in prescribed form with necessary documentation. Eight candidates out of 40 filed detailed applications. One Sabyasachi Lenka (respondent no.3) applied directly for the post. His application was received on 6.8.1998 before the last date 10.8.1998 fixed for receipt of applications from the candidates sponsored by the Employment Exchange. The departmental respondents have stated that Director General, Posts' circular dated 4.9.1982 at Annexure-R/2 provides that in case any of the candidates sponsored by the Employment Exchange is not found suitable, it would be open to the competent authority to make selection from other applicants in accordance with the existing procedure. Subsequently, the Director General, Posts, in his letter dated 3.6.1998 (Annexure-R/3) has directed that where candidates whose names are not sponsored by the Employment Exchange, request for consideration of their candidature, they should also be considered. The departmental respondents have stated that respondent no.3 besides filing his application for the post of EDDA on 6.8.1998, sent a representation on 10.8.1998 along with copy of judgment dated 5.8.1998 in OA No. 386 of 1998 of Cuttack Bench. Respondent no.3 had approached the Tribunal in OA No. 386 of 1998 and the

J. Lenka

Tribunal had ordered that in case the petitioner (respondent no.3 in this case) has submitted his application within the last date of receipt of applications, then filing of Oa will not be a bar on the respondents to consider his candidature. In view of this, the departmental authorities considered the candidature of respondent no.3 along with the candidature of the applicant and other seven candidates. It has been further stated that educational requirement for the post of EDDA is Class VIII pass. But the Rules provide that preference has to be given to candidates having matriculation qualification and no weightage can be given to any qualification higher than matriculation. Both the applicant and respondent no.3 are matriculates, but respondent no.3 has secured higher marks than the applicant in HSC Examination. In view of this, it is stated that the selection of respondent no.3 was done strictly in accordance with rules. The departmental rules have also denied that the case of the applicant was omitted from the zone of consideration. On the above grounds they have opposed the prayer of the applicant.


4. Respondent no.3 has filed a showcause opposing the prayer for stay and in this he has stated that he has been rightly selected and appointed to the post of EDDA, Kapsi EDBO. No separate counter has been filed by respondent no.3.

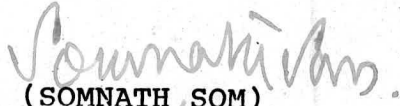
5. We have heard Shri D.R.Patnaik, the learned counsel for the petitioner and Shri B.Dash, the learned Additional Standing Counsel for the departmental respondents. As per our direction, the learned Additional Standing Counsel has submitted the selection file which has also been perused.

6. From the recital of pleadings of the parties as also from perusal of the selection file it is clear that the case of the applicant was taken into consideration and the contention of the applicant that his case was omitted from the zone of consideration is not correct. This contention is accordingly rejected.

7. The applicant has stated that he belongs to SEBC category. He has made no averment that the post was reserved for any of the preferential categories and therefore he is not entitled to any preferential consideration over other applicants belonging to general category. As both the applicant and respondent no.3 are Matriculates the departmental authorities have rightly gone by the marks obtained by both of them in HSC Examination. Respondent no.3 has got 306 marks out of 700 whereas the applicant has got 231 marks out of 700. In view of this, there is no illegality in the selection of respondent no.3 for the post of EDDA, Kapsi EDBO.

8. In the result, therefore, the Original Application is held to be without any merit and is rejected. No costs.


(G.NARASIMHAM)
MEMBER(JUDICIAL)


(SOMNATH SOM)
4.7.2000
VICE-CHAIRMAN