

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 464 OF 1999  
Cuttack, this the 15th day of March, 2000

Sri Paresh Kumar Nayak .... Applicant

Vrs. --

Union of India and others ..... Respondents

## FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *v.v.*
2. Whether it be circulated to all the Benches of the ~~AC~~ Central Administrative Tribunal or not?

Somnath Jm  
( SOMNATH S. M. 2 NO  
VICE-CHAIRMAN

U.S. GOVERNMENT

**MEMBER ( JUDICIAL )**

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 464 OF 1999  
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**CORAM:**

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

.....  
Sri Paresh Kumar Nayak, aged about 28 years, son of Sri Krishna Chandra Nayak, at/PO-Kuturachuan, Via-Kuchinda, District-Sambalpur ..... Applicant

Advocates for applicant - M/s S.P.Pati  
N.Mohanty

Vrs.

1. Union of India, represented through Chief Post Master General, Orissa, Bhubaneswar.
2. Post Master General, At/PO/Dist.Sambalpur.
3. Superintendent of Post Offices, Sambalpur Division, At/PO/Dist.Sambalpur.
4. Sub-Divisional Inspector (Postal), Deogarh Sub-Division, At/PO/Dist.Deogarh.
5. Sri Sanjib Kumar Nayak, son of Sri Jagannath Nayak, At/PO-Kuturachuan, Via-Kuchinda, District-Sambalpur.  
..... Respondents

Advocates for respondents - Mr.A.K.Bose  
Sr.C.G.S.C.  
&  
M/s M.Kanungo  
Y.S.P.Babu  
L.Kanungo  
S.Satpathy  
S.Nanda  
for R-5.

O R D E R  
(ORAL)

G.NARASIMHAM, MEMBER(JUDICIAL)

Heard Shri S.P.Pati, the learned counsel for the applicant, Shri A.K.Bose, the learned Senior Standing Counsel for departmental respondents, and Shri Y.S.P.Babu, the learned counsel for private respondent no.5.

2. Applicant and respondent no.5 along with others were candidates for the post of EDBPM, Kuturachuan in account with Kuchinda Sub-Office. Respondent no.5 was

selected and appointed to that post in order dated 16.8.1999 (Annexure-R/1). The applicant prays for quashing of this order on the ground that he secured higher percentage of marks in H.S.C.Examination than respondent no.5.

3. In the counters filed by the Department as well as by respondent no.5 this fact has not been denied. As per recruitment rules the candidate securing higher percentage of marks in Matriculation Examination is to be selected and appointed to the post of EDBPM. Since respondent no.5 secured less marks than the applicant, his selection and appointment to that post cannot be sustained.

4. In the counter it is also admitted that the applicant secured higher percentage of marks in HSC Examination than respondent no.5. In this view of the matter, his other prayer to direct the departmental respondents to select and appoint him to that post is allowed.

5. In the result, while quashing the selection and appointment of respondent no.5 to the post of EDBPM, Kulturachuan Branch Post Office, we direct the departmental respondents to select and appoint the applicant to the said post within a period of 60(sixty) days from the date of receipt of copy of this order.

Shri Babu, the learned counsel for private respondent no.5 submits that we should make an observation in view of the experience gained by respondent no.5 in the post. It is upto respondent no.5 to mention about his experience in future whenever he applies for any post of ED Agent.

6. In the result, the Original Application is allowed. No order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
15.3.2000  
VICE-CHAIRMAN

15.3.2000  
(G.NARASIMHAM)

MEMBER (JUDICIAL)

AN/PS