

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 467 OF 1999.  
Cuttack, this the 8th day of January, 2001.

Purna Chandra Das.

....

Applicant.

- Versus -

Union of India & 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  
(SOMNATH SOM)  
VICE-CHAIRMAN

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ORIGINAL APPLICATION NO. 467 OF 1999.  
Cuttack, this the 8th day of January, 2001.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

..

Purna Chandra Das, Aged about 24 years,  
Son of Damodar Das, Village/PO: Champagarh,  
PS: Ranpur, Dist. Nayagarh. ....

Applicant.

By legal practitioner : M/s. K. P. Mishra, S. Dash, B. N. Nayak, Advocates.

- Versus -

1. Union of India represented by its  
Director General (posts),  
Dak Bhawan, Asoka Road, New Delhi-1.
2. Senior Superintendent of Post Offices,  
Puri Division, At/PO/Dist. Puri.
3. Sub Divisional Inspector (P),  
Nayagarh (east) Sub Division,  
At/PO/Dist. Nayagarh.
4. Sukanta Kumar Das, Aged about 26 years,  
S/o, Rama Chandra Das, Village-Champagarh,  
PO: Chandpur, PS: Ranpur, Dist. Nayagarh.

.... Respondents.

By legal practitioner for Respondents 1 to 3: Mr. A. K. Bose,  
S. St. Counsel

By legal practitioner for Res. No. 4 : M/s. B. B. Biswal, M. R. Panda,  
D. K. Biswal,  
Advocates.

*S. J. OM*

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, the applicant has prayed for quashing the order dated 28.7.1999 at Annexure-4 appointing Respondent No.4 to the post of Extra Departmental Branch postmaster, Champagarh Branch Post Office. His second prayer is for a direction to the Senior Superintendent of Post Offices, Puri Division to appoint him to that post. Departmental Respondents have filed counter opposing the prayers of the applicant. Respondent No.4 the selected and appointed candidate has also filed counter.

2. Learned lawyers have abstained from court work from 7.12.2000. We have been informing from time to time that they will be returning to court work after a few days but in this manner the abstention from court work continued for more than a month. We have been accommodating the lawyers by taking up for disposal only the cases where parties have turned up and asked for adjudication but as the abstention from court work has gone on for more than a month the court work can not be held up indefinitely. We, have therefore, perused the records and we proceed to dispose of the matter.

3. For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that a new Branch post office was established at Champagarh village and for filling up of the post of EDBPM, the Employment Exchange was addressed but as there was no response from the Employment Exchange, public notice at Annexure-1 was issued on 16-4-99 inviting applications

for the post as to reach the Departmental Authorities by 10-5-1999. It was mentioned that preference will be given to ST/SC/OBC community in descending order and in case 3(three) minimum candidates are not available the post will be filled up by selecting candidate from general community. It is the admitted position that the applicant and Res. No. 4 were both the candidates for the post and both of them belong to SC community. Applicant has challenged the selection of Respondent No. 4 on the ground that according to the notification under Annexure-1 the selected candidate must have independent source of income derived from agri. property or immovable assets and the case of the applicant is that Respondent No. 4 the selected candidate did not have any independent immovable assets in his name except some dispute property which is the subject matter of title suit No. 77/39 pending before the Civil Judge, (Sr. Division), Nayagarh. It is further stated that the income certificate and the Solvency certificate issued by the Tahasildar in favour of Respondent No. 4 has been obtained by fraud and the Tahasildar has sent a letter dated 8.7.1999 to the Sub Divisional Inspector, Nayagarh, Respondent No. 3 that he has objection against Respondent No. 4 regarding his Income and Solvency certificates. Thus, the case of the applicant is that Respondent No. 4 was not eligible to be considered but he has been wrongly considered. The above contentions of the applicant in his petition are discussed below.

S.Jom.

4. Respondents have pointed out in para 4.1 of their counter that Tahasildar Ranpur has intimated in letter dated 8.7.99 that the documents issued from his office which is the

Income certificate and the document relating to the property of Respondent No. 4 have been found to be correctly issued from his office. A complaint petition has been filed against the income of Respondent No. 4 and the same is under enquiry. Departmental Respondents have pointed out that the Tahasildar has stated that the income certificate has been rightly issued from his office and the same has been found genuine. As regards the dispute/nature of the property, the Departmental

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Respondents have pointed out that so long as by way of Title suit the Respondent No. 4 is not evicted from the property it can not be said that he did not have any immovable property in his name. Later on the Title suit No. 77/97 has ended by a compromise/in judgment dated 17.7.1999. Departmental Respondents have pointed out that as between the applicant and Respondent No. 4, the Respondent No. 4 has secured 43.14% of marks in HSC examination whereas the applicant has secured 38.04% marks in the HSC examination. From the above, it is seen that both the applicant and Respondent No. 4 had landed property in their name and as per the Income certificate issued by Tahasildar, both of them have the independent means of livelihood. According to the circular of the DG(Posts), amongst the eligible candidates person who has got highest percentage of marks in HSC examination has to be taken most meritorious and as the Respondent No. 4 has got higher mark than the applicant, Departmental Authorities have rightly taken him to be the most meritorious and has been rightly appointed to the post.

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5. In view of this, we hold that the application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAPMAN

KNM/CM.