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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 543 OF 1999
Cuttack this the 10th day of November/2000

Sulochana Tripathy

...

Applicant(s)

-versus-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

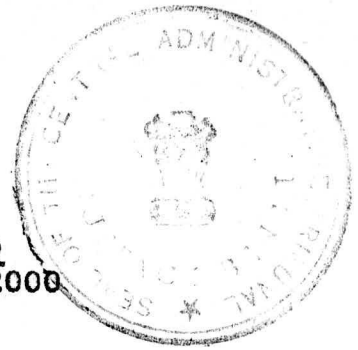
1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NO. 543 OF 1999
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CORAM:

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

...

Smt. Sulochana Tripathy, aged about 27 yrs.
W/o. Prana Krishna Pati, At/PO- Alakhunda Nuagaon
Via - Pritipur, Dist - Jajpur

...

By the Advocates

Applicant

M/s. Pradipta Mohanty
D.N. Mohapatra
G. Satapathy
J. Mohanty

-VERSUS-

1. Union of India represented by the Chief Post Master General, Orissa Circle, Bhubaneswar, Dist - Khurda
2. Superintendent of Post Offices, Cuttack North Division, Cuttack, At/PO/Dist - Cuttack-753001
3. Asst. Superintendent of Post Offices, Jajpur Postal Sub-division, At/PO/Dist - Jajpur

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By the Advocates

Respondents

Mr. A. Routray
Addl. Standing Counsel
(Central)

O R D E R

JJM
MR. SOMNATH SOM, VICE-CHAIRMAN : In this Application under Section 19 of the A.T. Act, 1985, the petitioner who is a candidate for the post of Extra Departmental Branch Post Master, Alakhunda Nuagaon Branch Office has prayed for a direction to Respondents to complete the selection following the reservation policy for handicapped persons and give appointment to her in the said post. The second prayer of the applicant is for giving preference to her as a physically handicapped person and her third prayer is for completing the selection process within a particular time. Respondents have filed their counter opposing the prayer of the applicant.

2. For the purpose of considering this Application it is not necessary to go into too many facts of this case. The admitted position is that^a vacancy in the post of E.D.B.P.M., Alakhunda Nuagaon Branch Office arose due to superannuation of the original incumbent and the petitioner along with someothers had applied for the post of E.D.B.P.M. The petitioner has stated that on eight occasions, i.e. from December/96 to May/99, she had worked as E.D.B.P.M. of that Post Office as substitute and this experience has not been taken into consideration by the Respondents. It is further submitted by the applicant that she is a physically handicapped person and according to instructions, of the Government, reservation should ~~have~~ have been provided in case of physically handicapped persons, but this has not been done. In the context of the above facts she has come up with the prayers referred to above.

3. Respondents in their counter have stated that the selection for the post in question has in the meantime been over and one Shri Subash Chandra Mohanty has been selected and has been working in that post. They have pointed out that as per the instructions of the Department amongst the eligible candidates the person securing the highest percentage of marks in the H.S.C. Examination is to be considered the most meritorious. It has been stated that selected candidate Shri Subash Chandra Mohanty has got 57.07% marks in the H.S.C. Examination whereas the petitioner has got 50.42% marks.

4. Law is well settled that experience as substitute cannot be taken into consideration for the purpose of regular appointment to the post of E.D.B.P.M. This is because, the substitute works at the risk and responsibility of the original

incumbent and is not appointed by the Department to the said post. Moreover, if the experience gained by a substitute is taken into consideration then it will always be opened for an incumbent to a post to proceed on leave by providing one of his relations as substitute with a view to come under the preferential category over other outside candidates at the time of regular selection to the post in question. This position of law having been settled the contention of the learned counsel that petitioner's experience as substitute should have been taken into consideration is held to be without any merit and the same is, therefore, rejected.

The second contention of the petitioner is that she is a physically handicapped person and no preference has been given to her as such. From the circular enclosed to the counter by the Respondents vide Annexure-7 it is clear that it is not open for the Superintendent of Post Offices to give preference to physically handicapped person. The decision of the Postal Services Board ^{is} to the effect that preference for physically handicapped person has to be determined in advance by the Offices at the Regional and Circle level and therefore, it is not open for the Superintendent of Post Offices to give preference to the physically handicapped person. Moreover, at the time of advertisement for the post in question there has been no mention that preference would be given to any physically handicapped person. Therefore, petitioner cannot claim that she should have been ^{given} preference. This contention is, therefore, held to be without any merit and the same is therefore, rejected.

In the result, therefore, we hold that the applicant



J.J.M.

has not been able to make out a case for any of the reliefs prayed for in this Application, which is accordingly rejected, but without any order as to costs.

This order has been passed after hearing Shri D.N. Mohapatra, on behalf of Shri Pradipta Mohanty, learned counsel for the petitioner and Shri A.Routray, the learned Additional Standing Counsel appearing for the Respondents.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//



(SOMNATH SOM)
VICE-CHAIRMAN