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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 566 OF 1999
Cuttack this the 5th day of May, 2000

Ratikanta Behera ... Applicant(s)

-VERSUS-

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
2000

5.5.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.566 OF 1992
Cuttack this the 5th day of May, 2000

CORAM:

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

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Ratikanta Behera,
S/o. Bhaktahari Behera
Vill/PO: Saria, Via: B.Sathilo
PS: Betanati, Dist: Mayurbhanj

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Applicant

By the Advocates

Mr.P.V.B.Rao

- VERSUS -

1. Union of India represented by it's
Chief Post Master General (Orissa Circle)
At/Po: Bhubaneswar, Dist: Khurda
PIN 751 001
2. Superintendent of Post Offices
Mayurbhanj Postal Division
At/Po: Baripada,
Dist : Mayurbhanj-757001

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Respondents

By the Advocates

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

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ORDER

MR.G.NARASIMHAM, MEMBER (JUDICIAL) : In this application for quashing notification dated 27.10.1999 (Annexure-A/2) inviting applications for filling the post of Extra Departmental Branch Post Master, Saria in the District of Mayurbhanj, and for issue of direction to Respondent No.2 to proceed with selection on the basis of earlier notification dated 15.9.1999 (Annexure-A/1) the facts not in controversy are that in response to 1st notification under Annexure-A/1 for filling the post of E.D.B.P.M. at Saria, 19 applications were received. Out of them applicant Ratikanta Behera secured 60.66% marks and Anuradha Mahapatra secured 58.7% in the H.S.C.Examination. All other candidates excepting Harekrishna Mahanta secured less percentage of marks than these two. Harekrishna Mahanta who secured 537 out of 750, i.e. higher percentage of marks than the applicant was not included in the zone of consideration on the ground that he did not send the Income Certificate required under rules and indicated in the proforma application for indicated in Annexure-A/1. Yet without selecting a candidate out of these 19 applicants, second notification dated 27.10.1999 (Annexure-A/2) was issued inviting applications for the very same post.

2. Shri P.V.B.Rao, learned counsel for the applicant raised the following contentions :

- (a) Without cancelling the selection under notification dated 15.4.1999 (Annexure-A/1) 2nd notification dated 27.10.1999 under Annexure-A/2 could not have been issued for filling up the same post ;
- (b) Since Harekrishna Mahanta did not send the Income Certificate his application received in response to Annexure-1 was not taken into consideration and there was no necessity for issue of the 2nd notification under Annexure-A/2 inviting applications.

(c) Since there were good number of candidates for consideration in response to Annexure-A/1, ~~for~~ selection for the post can be finalized on the basis of these applications

3. Shri A.Routray, learned Addl. Standing Counsel appearing for the respondents (Department) had taken us through the pleadings which would indicate that the vacancy was not reserved for any particular community. There was also no indication that it would be filled up on preferential basis. Hence under prevailing Recruitment Rules candidates securing highest percentage of marks in the H.S.C.Examination and having adequate means of livelihood shall have to be normally selected. It is only to determine whether a candidate had adequate means of livelihood or not, income certificate from the competent authority is insisted upon. Even if a candidate secures higher percentage of marks in H.S.C.Examination, yet he would be ineligible for selection in the absence of an income certificate indicating adequacy of livelihood.

4. The fact however remains that even though income certificate in the application of Harekrishna Mohanta was wanting, fresh notification under Annexure-2 was issued. There is no mention in this notification or as a matter of fact any other order filed to the effect that notification under Annexure-1 stood cancelled. There is some force in the contention of Shri Rao that without taking a decision to cancel the selection under Annexure-1, second notification (Annexure-2) for selection to the same post could not have been issued. The reason mentioned in the counter in this regard is rather vague. The reason is that Harekrishna Mahanta on being contacted stated to have submitted the income certificate along with his application. To know this fact

an inquiry was conducted. As it was not possible to take a decision in the matter it was decided to call for applications afresh under Annexure-A/2. On our direction the learned Addl. Standing Counsel was ready with the relevant Inquiry File on the date of hearing and the file, i.e. H-824/PF reveals that in the inquiry it was established that Harekrishna Mahante did not at all send income certificate. In view of this the matter we reiterate that issuing 2nd notification under Annexure-2 dated 17.10.1999 inviting applications for this post was uncalled for and not permissible under law.

5. In the result we quash the 2nd notification under Annexure-2 dated 27.10.1999 which is also marked as Annexure-R/6 to the counter and direct Respondent No.2 the appointing authority to finalize the selection to the post of E.D.B.P.M. Saria Branch Office by taking into account applications received in response to notification under Annexure-1 dated 15.4.1999 and which are complete in all respects within a period of 30(Thirty) days from to-day. As ordered by us on 17.11.1999 appointment, if any, made pursuant to the 2nd notification also stands quashed. Application is allowed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

5-5-2002
(G. NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//