

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH;CUTTACK.

ORIGINAL APPLICATION NO. 59 OF 1999.  
Cuttack, this the 28th day of August, 2000.

L. Rajeswar Rao.

...

Applicant.

-Versus-

Union of India & Ors.

...

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  
28.8.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH;CUTTACK.

ORIGINAL APPLICATION NO. 59 OF 1999.  
Cuttack, this the 23th day of August, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

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Shri L. Rajeswar Rao, Aged about 24 years,  
S/o. Sri L. Kameswar Rao, Village: Mathura  
Narayanpur, Post: Battisiripur, via. Upalada,  
Dist. Gajapati.

... APPLICANT.

By legal practitioner: Mr. P. K. Padhi, Advocate.

- Vrs. -

1. Union of India represented by its  
Chief Postmaster General (Orissa Circle),  
At/Po: Bhubaneswar, Dist. Khurda-1.
2. Postmaster General (Berhampur Region),  
At/Po: Berhampur, Dist. Ganjam (O) -1.
3. Superintendent of Post Offices,  
Berhampur Postal Division,  
At/Po: Berhampur, Dist. Ganjam (O).
4. Director of Postal Services,  
Berhampur Region, At/Po: Berhampur.,  
Dist: Ganjam (O).
5. P. Pravakar Rao, EDBPM, At/Po: Batisiripur,  
via: Upalada, Dist. Gajapati.
6. Hari Hara Mishra, Supdt. of Post Offices,  
Berhampur postal Division, At/Po: berhampur,  
Dist: Ganjam (O).

... RESPONDENTS.

*S. Som.*  
By legal practitioner: Mr. J. K. Nayak, Additional Standing Counsel.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, the applicant has challenged the appointment of Respondent No.5 to the post of EDBPM, Battisiripur Branch Post Office on the grounds urged in the O.A. Departmental Respondents have filed counter opposing the prayer of applicant. Respondent No.5 the selected candidate was issued with notice but he did not appear nor filed counter.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. We have heard Mr. P.K. Padhi, learned counsel for the applicant and Mr. J.K. Nayak, learned Additional Standing Counsel (Central) appearing for the Departmental Respondents and have also perused the records.

3. The selection of Respondent No.5 to the post of EDBPM, Battisiripur Branch Post Office has been challenged on four grounds; firstly it is stated that the Respondent <sup>know</sup> No.5 does not oriya; secondly it is stated that he has passed matriculation examination through compartmental; thirdly it is stated that he has passed matriculation from Andhra University and his matriculation certificate is a fake one and fourthly it is stated that the selection has been delayed by about three years and on that ground the selection is liable to be struck down. We have heard learned counsel on these four points and these are discussed below in seriatim.

4. The Departmental Respondents in their counter have not made any specific averment about the selected candidate not knowing Oriya. Besides <sup>a</sup> bald assertion made by the applicant in his original application that the selected candidate does not know Oriya he has not mentioned anything in support of the above allegation. In any case, it is for the Departmental Authorities to take this aspect into account, if this is a necessary requirement. In any case, Respondent No. 5 has been selected and has been working in that post from 1998. In view of this, the above contention is held to be without any merit and is rejected.

5. The next contention is that Respondent No. 5 has passed matriculation in compartmental. From the check list it does not appear that the Respondent No. 5 has passed matriculation in compartmental. In any case, the Tribunal has held that the fact that a candidate has passed matriculation in compartmental examination will not disentitle him for consideration. The circular of the DG posts lays down that marks obtained in matriculation examination will be the deciding factor. <sup>Jm</sup> Because of the above, this contention is also held to be without any merit and is rejected. The third contention of the applicant is that matriculation examination of Andhra University is not a genuine examination and is not equivalent to matriculation examination conducted in Orissa. This point has been contested by the Departmental Respondents. They have pointed out that they have made a reference to the Andhra University and who have clarified in their letter at Annexure-R/6 that matriculation examination of Andhra University is equivalent to Secondary School Certificate examination and for the purpose of admission in the higher course of study. Moreover, the DPS in course of his

visit has recorded an order which is at Annexure-A/7 indicating that matriculation certificate of Andhra University should be taken into consideration and the applicant can not be disentitled because he is having matriculation certificate from Andhra University. Respondents have pointed out that they have made a reference to the Sr. Supdt. of Post Offices, Srikakulam and it has been clarified by the Sr. Supdt. of Post Offices, Srikakulam that matriculation certificate of Andhra University is being accepted as genuine for the purpose of consideration for appointment to ED posts. On the above grounds, this contention is also held to be without any merit and is rejected. The last contention of the learned counsel for the applicant is that the selection process took more than three years. Respondents have pointed out that this is because they had to make reference to Andhra University and also because the applicant had earlier approached the Tribunal in OA No. 593/96 in which case this Tribunal had directed that before appointment is made, applicant's representation should be disposed of. Accordingly disposal of the representation took time. From the above, we feel that the Departmental Respondents have satisfactorily explained the delay. This contention is therefore, rejected. Two other facts have to be taken into consideration in this connection. First is that Respondent No. 5 got more marks than the applicant in the matriculation examination; second point is that the applicant had not submitted his application for the post in time. He has given an explanation that he got the Income certificate from the Tahasildar only on the last

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date of submission of application and therefore, he wanted to submit the application by hand but as in the notice inviting application it was mentioned that the application should be sent only by Regd.post and the application handed over personally shall not be accepted, he sent the application by Regd.post and it reached after the last date of application. Departmental Respondents have stated that notwithstanding the receipt of application after the due date, this was taken into consideration. In any case, the first requirement for applying to any post is that the application must be submitted on or before the last date of receipt of application. The point that the Tahasildar given the Income Certificate late can not be a ground for such delay. In view of this, we hold that this Original Application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*28/8/2000*

KNM/CM.