

9
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 633 OF 1999

Cuttack, this the 11th day of April, 2001

Snigdharani Sahoo ... Applicant

Vrs.

Union of India and another ... 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)

[Signature]
VICE-CHAIRMAN
11.4.2001

10
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 633 OF 1999
Cuttack, this the 11th day of April, 2001

CORAM:

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

.....
Snigdharani Sahoo, aged about 23 years, daughter of Sri
Khageswar Sahoo of Village/PO-Baghilobabanpur,
P.S-Kendrapara, Via-Chandol, District-Kendrapara

.... Applicant

Advocates for applicant - M/s B.Pal
M.P.J.Roy

Vrs.

1. Union of India, represented through the Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
2. The Superintendent of Post Offices, Cuttack North Division, Cuttack-753 001.

..... Respondents

Advocate for respondents - Mr.A.Routray
ACGSC

SOMNATH SOM, VICE-CHAIRMAN O R D E R

In this O.A. the petitioner has prayed for a direction to the respondents to consider the case of the applicant for the post of EDBPM, Baghilobabanpur and to treat her as a preferential candidate in view of Annexures 2 and 3. The respondents have filed counter opposing the prayer of the applicant. The applicant has filed a rejoinder to the counter and the respondents have also filed a reply to the rejoinder. We have heard Shri B.Pal, the learned counsel for the petitioner and Shri A.Routray, the learned Additional Standing Counsel for the respondents and have also perused the record.

2. The admitted position is that vacancy in the post of EDBPM, Baghilobabanpur was due to arise on

superannuation of the existing incumbent on 12.11.1999 and to fill up the vacancy, the Employment Exchange was asked to sponsor candidates and a public notification was also issued simultaneously at Annexure-1 calling for applications from the public. Out of the list sponsored by the Employment Exchange, five candidates applied, and seven candidates applied in response to the public notification. The applicant has stated that she is a physically handicapped person as is evidenced by the certificate at Annexure-2. The departmental instructions at Annexure-3 also provide for reservation of a number of ED posts for physically handicapped persons and therefore, she should have been given preference. She has also stated that she belongs to OBC and as such she is entitled to preferential treatment on that count, as well. She has stated that the departmental authorities want to favour one Satyabhama Mohanty who belongs to General Category and does not belong to the post village. In the context of the above, she has come up in this OA with the prayers referred to earlier.

3. We have considered the submissions made by the learned counsels of both sides carefully. The learned counsel for the petitioner has relied on the decision of the Tribunal in OA No.461 of 1996, Sri Sushanta Kumar Das v. Union of India and others, decided on 8.9.1999, and we have perused the same.

4. The first point urged by the learned counsel for the petitioner is that the petitioner being an OBC candidate should have been given preference. It has been submitted by the learned counsel for the petitioner that the respondents themselves have stated in paragraph 5 of the

12
counter that in fact there is shortfall in representation of OBC category. It has also been submitted by him that as there was shortfall in the representation of OBC category among the EDBPMs, the applicant should have been given preference as an OBC candidate. It has been submitted by the learned Additional Standing Counsel for the respondents that as the post was not reserved for OBC candidate, no preference could have been shown to the applicant because of her OBC status. The learned counsel for the petitioner has pointed out that in the public notice inviting applications at Annexure-1 it has been mentioned that in case of SC, ST and OBC candidates, caste certificate from the appropriate authority not below the rank of Tahasildar should be enclosed. It is stated that if no preference was required to be given to any reserve category, there was no necessity of mentioning about enclosing the caste certificate. The respondents have pointed out that reservation for SC, ST and OBC cannot exceed 50% and therefore, every alternate vacancy is treated as reserved vacancy and preferential category is accordingly shown depending upon the shortfall in the level of representation of particular reserve category. In the instant case, the post was not reserved for OBC candidate. We have considered these submissions carefully. As the post was not reserved for OBC candidate, the departmental authorities could not have shown preference to the applicant because of her OBC status. Moreover, in the requisition to the Employment Exchange it was not mentioned that the post is reserved for OBC. Had it been so done, then more number of OBC candidates would have applied. We find from the checklist at Annexure-R/1 that apart from the applicant, there was only one more candidate belonging to OBC and therefore, minimum 3 OBC candidates were also not there. In view of this, we hold

S. J. M.

13
that the applicant is not entitled to be given prefeential consideration because of her OBC status.

5. The next contention of the learned counsel for the petitioner is that the applicant is a handicapped person and she should have been shown preference because of her handicapped status. In support of his contention, the learned counsel for the petitioner has relied on Annexure-3 in which the decision of Director General, Posts, regarding reservation of posts for physically handicapped persons has been circulated. In this decision it has been mentioned that the Postal Services Board has decided that the Heads of Circles and Regional Post Masters General should give preference to physically handicapped persons for their appointment to ED category. It has been further decided that no specific posts will be reserved for this category and no roster is to be maintained. It is further provided that to make adequate representation of physically handicapped persons as ED Agents possible, the Chief Post Masters General and Regional Post Masters General should allocate the number of different types of handicapped persons to be appointed. From this circular relied upon by the applicant herself it is clear that it is not for the Superintendent of Post Offices to give preference to a physically handicapped person. It is for the Chief Post Master General or the Regional Post Master General to allocate a particular post to be filled up by physically handicapped person and thereafter at the time of initiation of the selection procedure it has to be clearly mentioned that the post will be filled up by a physically handicapped person so that more than two physically handicapped persons could apply so as to impart an element of

J Sm

competence in the process of selection. In the instant case, the petitioner is the sole candidate belonging to physically handicapped category and therefore, she could not get any preference on that count. This contention is also, therefore, held to be without any merit and is rejected.

6. The respondents have pointed out that the applicant did not submit along with her application the income certificate in her own name. The last date for receipt of applications was 24.9.1999 and the applicant submitted the income certificate only on 30.9.1999, i.e., beyond the last date. On this ground the candidature of the applicant was liable to be rejected. Moreover, the applicant has mentioned in paragraph 4(ii) of the OA that because she is physically handicapped she is a burden on the family and her parents do not have sufficient source of income to maintain her till the end of her life. From this it appears that by her own admission the applicant does not have independent means of livelihood and on this account also her case does not deserve to be considered for the post of EDBPM because the rules provide that to be eligible, a candidate must have independent means of livelihood so that he does not have to depend upon the allowances of EDBPM for his sustenance. Moreover, it has been pointed out by the respondents in the counter that on the basis of marks, the applicant's position is no.4 and there are other candidates who have secured more marks than her in HSC Examination.

7. In consideration of all the above, we hold that the applicant is not entitled to the relief claimed by her in the Original Application which is accordingly rejected. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
14.2.01