

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.187 OF 2000
Cuttack this the 04th day of ~~August~~/2001
September

Pitabas Mallik ... Applicant(s)

• • •

Applicant(s)

-VERSUS-

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

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Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 44.
2. Whether it be circulated to all the Benches of the No. Central Administrative Tribunal or not ?

Somnath Sond
SOMNATH SOND
VICE-CHAIRMAN
8.7.2001

(G.NARASIMHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.187 OF 2000
Cuttack this the 04th day of August/ 2001
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CORAM:

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

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Pitabas Mallik aged about 20 years,
Son of Birat Mallik, resident of
Village-Takara, PS: Dasapalla,
Dist-Nayagarh

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Applicant

By the Advocates

M/s.N.P.Patnaik
R.K.Sahoo

-VERSUS-

1. Union of India represented through Chief Post Master General, Orissa Circle, At/PO-Bhubaneswar District-Khurda
2. Senior Superintendent of Post Offices, Puri Division, At/PO/Dist-Puri
3. Assistant Superintendent of Post Offices, Puri Sub-Division, At/PO/Dist-Puri
4. Deepak Pani, Son of Biswanath Pani, resident of Vill-Gelasahi, Khadipada PO:Khadipada, Dist-Puri

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Respondents

By the Advocates

Mr.J.K.Nayak, A.S.C.
(Res. 1 to 3)

M/s.D.K.Mishra-I,
S.C.Mohanty,
R.Mahalik
G.K.Nayak
(Res.No.4)

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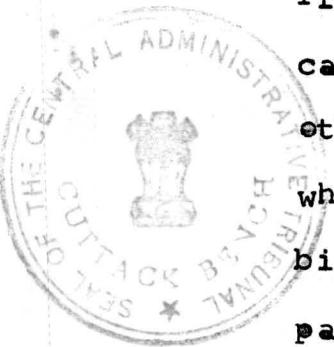
O R D E R

MR .G .NARASIMHAM, MEMBER (JUDICIAL): Applicant, Pitabas Mallik, belonging to Scheduled Tribe community challenges the selection and appointment of Dipak Pani (Respondent No.4), a candidate belonging to O.B.C. community to the post of Extra Departmental Mail Carrier, Chilika-Nuapada B.O. in account with Puri, on the ground that the post having been reserved for Scheduled Tribe community and he having applied for that post should have been

considered for that post in preference to Respondent No.4, who is a candidate belonging to O.B.C. category.

2. Respondent No.4 (Dipak Pani) though entered appearance has not filed any counter.

The departmental Res. 1 to 3 filed their counter stating that the competent authority, i.e., Respondent No.3 placed the requisition to the District Employment Officer, Puri, so also issued Public Notification dated 19.11.1999, inviting applications for filling up of the post in question, mentioning therein that preference should be given to Scheduled Tribe community and in the absence of required number of S.T. candidates, to the O.B.C. Candidates subject to fulfilment of the other conditions prescribed under the Rules. Out/candidates who were required to submit certificates in support of date of birth, educational qualifications, mark sheets of Class-VIII pass or H.S.C. Examination and two Character Certificates, 47 applications were received within the stipulated time. Out of them three candidates belonged to S.T. and 14 O.B.C. None of the S.T. candidates passed the H.S.C. Examination. None of them also submitted mark-sheet of Class-VIII pass and they submitted only one Character Certificate each, instead of two. Out of the 14 O.B.C. candidates, six were Matriculates. The Appointing Authority selected Respondent No.4, an O.B.C. candidate on the ground that none of the candidates belonging to S.T. community possessed the desirable preferential qualification of Matriculate. According to the Department, the procedure adopted by the Appointing Authority, i.e. Respondent No.3 was not correct since there was short fall in representation of Scheduled Tribe community in the recording Unit and that



there were also three candidates from S.T. Community possessing the essential qualification of Class-VIII pass. Thus the selection was irregular. However, due to pendency of this Original Application no remedial measure could be taken in that connection.

3. No rejoinder has been filed by the applicant.
4. We have heard Shri J.K.Nayak, learned Addl. Standing Counsel appearing for Res. 1 to 3 and the learned counsel for Respondent No.4. Because of the absence of the learned counsel for the applicant we did not have the advantage of hearing his submission. However, we have perused the pleadings.
5. Since the Department is of the view that selection and appointment of Respondent No.4 (Dipak Pani) to the post of E.D.M.C. was irregular and need to be cancelled, question of quashing the selection and appointment of Res.4 to that post, as prayed for by the applicant, would not arise and we need not enter into the merits to examine whether the selection and appointment of Respondent No.4 can be legally sustained. At the same time is made clear that consequent upon the cancellation of selection and appointment of Respondent No.4 to be made by the Department, the applicant cannot automatically be appointed to that post. It is for the Department to consider his case along with other S.T. candidates within the zone of consideration for the post in question in case the relevant particulars requiring the eligibility to the post are available with the Department.
6. With the aforesaid observation the O.A. is disposed off, No costs.

Somnath Som
 SOMNATH SOM
 VICE-CHAIRMAN
 B.K.SAHOO //

4.9.01
 (G.NARASIMHAM)
 MEMBER (JUDICIAL)