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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 222 OF 2000
Cuttack this the 28th day of September/2000

Pradipta Kumar Sahoo

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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
28.9.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 222 OF 2000
Cuttack this the 28th day of September/2000

CORAM:

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

Pradipta Kumar Sahoo
aged about 29 years,
S/o. Purna Ch. Sahoo, At: Sabideipur
PO: Binayakpur, Dist - Nayagarh

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Applicant

By the Advocates

M/s. B.N. Nayak
B.B. Mohapatra

-VERSUS-

1. Union of India represented through its Secretary, Ministry of Communications (Deptt. of Postal), At: Daktar Bhawan, New Delhi
2. Senior Superintendent of Postal, Puri, At/PO/Dist - Puri
3. Inspector, Nayagarh Western Circle Nayagarh, At/PO/Dist - Nayagarh

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Respondents

By the Advocates

Mr. A.K. Bose
Sr. Standing Counsel
(Central)

O R D E R

J. Som - MR. SOMNATH SOM, VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to Respondents to consider the candidature of the applicant for the post of Extra Departmental Branch Post Master, Binayakpur. By way of interim relief he had prayed that respondents should be enjoined not to give any appointment to that post without the leave of the Tribunal. In order dated 4.5.2000, by way of interim relief, Respondents were directed that they may go ahead with the process of selection, but appointment order, if any, should be issued only with the leave of the

Tribunal. Respondents have filed show cause and counter opposing the prayer of the applicant. We have heard Shri B.N. Nayak, learned counsel for the applicant and Shri A.K. Bose, learned Senior Standing Counsel appearing for the Respondents and have perused the records.

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 vacancy in the above said post of E.D.B.P.M. arose on 10.7.2000 due to superannuation of the earlier incumbent. In response to a public notice six candidates including the applicant submitted their applications. Respondents have stated that candidature of the applicant was not taken into consideration because he had no landed property exclusively in his own name, nor ~~he~~ ^{he} did furnish any document showing existence of any such landed property. Respondents have stated that according to Circular of D.G. Posts, preference has to be given to candidates whose adequate means of livelihood is derived from landed property or immovable assets. Respondents have further stated that because of this candidature of the petitioner has not been taken into consideration. But because of the interim order of the Tribunal no selection has yet taken place. It is submitted by the learned counsel for the petitioner that he has acquired immovable land in his name on which he has constructed a house. This land is in his possession much prior to the last date of filing of applications and the Respondents have along with their counter filed a copy of this Record of Right and therefore, it must be taken that the applicant is having landed property in his name. We in the several cases in the



J. J. M.

past have held that the E.D.Rules prescribe that the person to be considered for the post of E.D.B.P.M. must have adequate means of livelihood, but the Rules do not provide that such adequate means of livelihood must be derived from the landed property held exclusively in the name of the candidate.

Moreover, the Circular dated 18.9.1995 of D.G.Posts, gist of which has been printed at Pages 80 - 81 of Swamy's Compilation of E.D. Rules (7th Edition) provides that even in a case where the applicant does not have any property in his own name, but acquires this qualification subsequent to filing of the application and brings this fact to the notice of the Department and where such property has been acquired prior to last date of receipt of applications then the applicant should be deemed to have been acquired such qualification. In this case applicant acquired the property in his name much prior to filing of the application and the applicant had ^{this fact} not brought to the notice of the respondents which is clear from the pleadings in the counter. Therefore, in accordance with the above circular of the D.G.Posts his candidature must be considered. Moreover, we have in the past have held in several cases that candidature of a person cannot be rejected on the ground that he does not have landed property exclusively in his name. In consideration of the above, we dispose of this Application with a direction to respondents that candidature of the applicant should be considered strictly in accordance with the rules and in accordance with the observations made by us above and the selection process completed expeditiously. No costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
28.1.2000