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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.425 OF 2000
Cuttack this the 19th day of September 2001

Lalmohan Kiscu Applicant.

Versus.

Union of India and Others Respondents

For Instructions

1. Whether it be referred to the Reporters or not ? Yes

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

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

19.9.01
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUATTACK

ORIGINAL APPLICATION NO.425 OF 2000
Cuttack this the 19th day of Sept. 2001

CORAM:

THE HON'BLE SHRI SOMNATH SOM,
THE HON'BLE SHRI G.NARASIMHAM,

VICE-CHAIRMAN
MEMBER (J)

Lalmohan Kiscu
S/o. Dukhei Kiscu,
of Biridib, P.S.Agarapada,
Dist.Bhadrak

By the Advocates

.... Applicant.
M/s B.S.Misra
K.N.Patnaik
M.R.Misra
P.K.Mohanty
A.K.Mohanty
R.N.Panda
P.R.Misra



V e r s u s .

1. Union of India, represented through
Post Mastser General At-Bhubaneswar.
P.M.G.Square, Dist.Khurda.

2. Superintendent of Post Office,
At/P.O./Dist. Bhadrak. Respondents.
By the Advocates Mr.J.K.Nayak

O R D E R

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G.NARASIMHAM, MEMBER(JUDICIAL): In this application seeking appointment to the post of EDBPM, Anijo in account of B.T.Pur Sub-post Office under Bhadrak Head Office, pursuant to the advertisement dated 24.4.2000 (Annexure-1), applicant and thirteen others were the candidates for the post.

2. The case of the applicant is that he being a H.S.C. pass candidate belonging to S.T. Community and being the only S.T.candidate has better claim for the post since the post as per the advertisement (Annexure-1) is primarily meant for S.T.Community.

3. In the counter, the Department do not dispute that the applicant is the sole S.T.candidate in the fray. But their case is that the advertisement itself stipulates that in case of non-availability of required suitable S.T.candidates, candidature of O.B.C. candidates would be taken into consideration. Since the minimum number of three eligible candidates from a particular community is the yardstick for consideration for selection as per the provision framed by the Department (Annexure R/1), candidature of the applicant was not considered. Hence selection was made among the O.B.C. candidates of whom applications of only four were complete in all respects meeting requirements mentioned in the advertisement. Out of these four one Yudhistir Sahoo



secured 44.71% of marks in the H.S.C. which is higher than remaining three O.B.C. candidates. He was selected and appointed and he accordingly joined on 7.9.2000.

4. Despite taking several ~~advertisements~~, the applicant had not filed any rejoinder.

5. Since rejoinder has not been filed, it is presumed that the applicant has not secured higher percentage of marks in the H.S.C. than the selected candidates. Hence the only point needing consideration is whether as sole S.T.Candidate, the applicant has better claim for the post.

6. Annexure R/1, D.T.E circulars dated 27.11.97 at para 8 provides that in case minimum number of three eligible candidates do not offer their candidates approval of the next higher authority to the proposed appointment should be obtained before the selection is made from amongst such candidates. It is the specific case in the counter that at first Yudhistir Sahoo ^{was} provisionally appointed by Respondent No.2. Thereafter, in letter dated 25.8.2000 Respondent No.2 was asked to appoint Yudhistir Sahoo after observing usual formalities. Accordingly, Shri Sahoo had undergone necessary training, ^{and} joined the post on 7.9.2000.

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7. In this view of the matter, applicant cannot succeed, ^{where} More so, he has not amended the O.A. impleading Yudhistir Sahoo as a Respondent even after receiving a copy of the counter.

8. The O.A. is accordingly dismissed. No Costs.



Somnath Som
 (SOMNATH SOM)
 VICE-CHIEF MEMBER

14.9.01
 (G. NARASIMHAM)
 MEMBER (JUDICIAL)

CRB