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O.A.No.258 of 2001

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ORDER DATED 12.3.2004.

Sri S.K.Nanda, Applicant, has filed this Original Application under section 19 of the A.T. Act, 1985 being aggrieved that although he belongs to Physically Handicapped category, he has not been selected for the post of EDBPM, Kalanga Branch Post Office; which was advertised by the Respondent No.3 on 17.8.2000. The plea of the Applicant is that in the notification dated 17.8.2000 at para-2(a) it has been notified as under:

"xx xx. Preference will be given to Physically handicapped candidates according to reservation and short-fall in representation".

He, therefore, had felt that preference will be given to the candidates belonging to Physically Handicapped category. However, later on it turned <sup>out</sup> that although his candidature was considered, the selection of the candidates made <sup>was</sup> one who was not physically handicapped. Being aggrieved by this action of the Respondents, which he felt ~~was~~ not only discriminator but also in gross violation of the conditions of notification dt. 17.8.2000 ~~and, therefore~~, has approached this Tribunal for justice.

Respondents by filing a detailed counter have explained the matter stating that the post was declared unreserved in the notification dt 17.8.2000


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itself and that no preference in any preferential category was declared to be given in that circular. They have further averred that the vacancy was again re-notified on 17.10.2000 which is annexed as Annexure-R/3 and that in their requisition sent to the local Employment Exchange, vide their letter dt. 17.8.2000 (Annexure-R/1) they had clearly mentioned that the vacancy is to be treated as un-reserved. In view of the above facts of the case, they have submitted that the allegations levelled by the applicant <sup>are</sup> without any basis.

We have heard Mr. C. R. Mishra, learned counsel for the Applicant and Mr. B. Dash, learned Additional St. Counsel appearing for the Respondents and perused the materials placed on record, including the check-list prepared by the Respondents in respect of the candidates who had responded to their open advertisement as well as those whose names were sponsored by the Employment Exchange. In all they had considered 32 candidates belonging to OC/SC/OBC categories and selected one Shri Susanta Ku. Samal who belongs to OBC category who secured 68.53% marks in the HSC examination and had also possessed all other eligibility conditions as prescribed under the rules. From the above discussions, it is clear that the applicant was under some wrong impression that preference will be given to PH candidate <sup>although</sup> this condition has not been notified either in their vacancy circular dt. 17.8.2000 or in the requisition sent to the Employment Exchange on 17.8.2000 <sup>and</sup> or in their vacancy circular which was re-issued to correct

this wrong impression on 17.10.2000 (Annexure-R/3).

We, therefore, see no merit in this Original Application, which is dismissed. No costs.

  
(MANDRANJAN MOHANTY)  
MEMBER (JUDICIAL)

  
(B.N. SOM) 12/3  
VICE-CHAIRMAN