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CENTRAL ADMINISTRATATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.333/2001

Cuttack, this the 5th day of Aug', 2004

Madhu Sudan Sahu Applicant(s)

Vrs.

Union of India & Others Respondent(s)

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? *yes*


(M.R. MOHANTY)

MEMBER (JUDICIAL.)


(B.N. SOM)

VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

&

HON'BLE SHRI M.R. MOHANTY, MEMBER (J)

Sri Madhu Sudan Sahu, aged about 28 years, Son of Late mayadhar Sahu, At-Khandahar, P.O. Haldipada, P.S. Basta, Dist-Balasore.

..... Applicant.
By the Advocate(s) Mr. P.K. Khuntia

-Vs-

1. Union of India, represented through it's Secretary, Department of Posts, Dak Bhawan, Parliament Street, New Delhi-1
2. Chief Post Master General, Orissa Circle, Bhubaneswar-1
3. Superintendent of Post Office, Balasore Division, Balasore, Orissa.
4. Assistant Superintendant of Post Offices, In-charge, Balasore Sub-Division, At/P.O. Balasore, Dist-Balasore.
5. Nanda Kishore Kisku, Assistant Superintendent of post Offices – in-charge, Cuttack East, Sub-Division, Cuttack.
6. Shri Khudiram Murmu, Son of Late Surendra Murmu, At/Po-Saratha, Via-Haldipada, Dist-Balasore.

..... Respondent(s)
By the advocate(s) M/s M.P. J. Ray,
P.K. Padhi
B. Dash.

ORDER

SHRI B.N. SOM, VICE-CHAIRMAN: Shri Madhu Sudan Sahu, a candidate for the post of Extra Departmental Mail Carrier (in short EDMC) has filed this O.A. challenging the selection of Khudiram Murmu to the post.

2. The grievance of the applicant is that the post in question was advertised by the Respondent No.4 as reserved for S.T category failing which by selecting a suitable candidate from OBC/SC/OC community, in that order, and that for selection of a reserved category candidate at least 3 candidates must be available for consideration for selection. Whereas the applicant was an OBC candidate and there were 3 OBC candidates available for consideration in terms of the notification dated 16.04.01 but no OBC candidate was selected. On the other hand, for the ST community only one candidate was available and in spite of that Respondent No.4, carried out selection of the ST candidate, that is Respondent No.6, illegally and with ill-motive. He has therefore assailed the selection as arbitrary and bad in law.

3. The Respondents by filing a counter have submitted that the post was essentially ear-marked to be filled up by selecting a ST candidate and that selected candidate, Respondent No.6, who the only eligible ST candidate was made by the Respondent No.4 in violation of the existing order governing the matter regarding selection of the ED agents. However, the selected candidate could not join the post due to the interim order of this Tribunal dated 01.08.01 passed in this O.A. They have also submitted that Respondent No. 3 had carried out a scrutiny of the selection and came to the conclusion that there were procedural irregularities in the processing of the case and therefore it is a fit case for review of the selection so made.

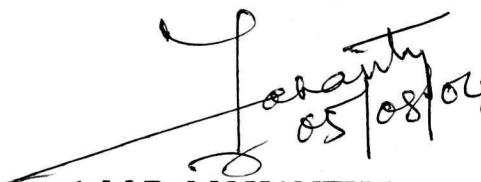
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4. We have heard Shri B. Das, Ld. Additional Standing Counsel for the Respondent and Mr. P.K. Khuntia Ld. Counsel for the applicant and have perused the records placed before us.

5. In the conspectus of this case and taking into account the finding of the Respondent No.3 about the lacuna in processing the selection for the post of ED MC Solpata the ends of justice would be met if we dispose of this OA by giving a direction to the Respondent to hold the selection process de-novo by considering the applicants who had applied in response to their open advertisement dated 16.04.01 and the candidates sponsored by the employment exchange in response to their notification dated 16.04.01. We also give liberty to the respondent first to consider whether they would like to fill up the post by selecting one ST candidate out of the two applications received in response to the vacancy circular following the instructions issued by the Director General of Post in this regard, in paragraph 8 of their circular dated 27.11.97. After taking a decision in this regard in terms of paragraph 8 of DG Post letter dated 26.11.97 in case the next higher authority decides not to fill up the post by a ST candidate then and then only action should be taken or make a selection from OBC

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category failing which from SC/OC categories. Accordingly, we dispose of this O.A with the above directions.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar