

9
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH
CUTTACK

O.A. 345/2001

Date of order: 13.04.2004

Present : Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.
Hon'ble Mr. S.K. Naik, Administrative Member.

Ramapada Murmu

- v e r s u s -

Union of India and Ors.

For the applicant : Mr. P.K. Padhi, counsel.

For the respondents : Mr. B. Dash, counsel.

O R D E R

Per Justice B. Panigrahi, VC

There was an advertisement dated 16.4.2001 for the post of EDDA/MC of Chaksartha Branch Post Office in Haldipada S.O. in Balasore Division. In the advertisement, it was clearly stipulated that the post was meant for ST candidate. However, in the absence of any suitable candidate from ST community, then the choice would go in favour of OBC and in the absence of suitable candidate from OBC community the vacancy would go to in favour of SC candidate failing which to the General Category candidates. Pursuant to the said advertisement, the applicant, who belongs to ST community, submitted his application for the aforesaid post, but he was not selected. In preference to his claim candidate from other backward community was chosen. It is stated in the application that the authorities should not have chosen a candidate from OBC category ignoring the rightful claim of ST community candidate since the post was meant for ST category.

B. Panigrahi

2. Mr. Padhi, Id. counsel appearing for the applicant has strongly argued that the post was meant for ST category. In the absence of sufficient number of candidates, belonging to ST community, it would have been open to the authority to seek a clarification from the higher authorities as to what course of action had to be followed. Without seeking any instruction from the higher authorities, It was improper for the respondents to choose the candidate from OBC according to their whims.

3. Mr. Dash, Id. counsel appearing for the respondents while supporting the stand of the respondents has contended that since no suitable candidate from ST community was available and a lone candidate applied for the post, therefore, there was no option left to the respondent authorities except selecting a candidate from OBC category. The Id. counsel disputes that the Rule stipulates that in the case of non-availability of the suitable candidate belonging to the particular category, the concerned authorities should seek instruction from higher authority as to what course of action has to be followed. Therefore, in the absence of any such circular it was quite legitimate and appropriate for the respondents to select the better and suitable candidate from OBC category.

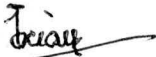
4. After hearing the Id. counsel appearing for both the parties and on perusal of the grounds stated by the respondents in the counter, it is seen that the respondents themselves have admitted that the matter is under review by appropriate higher authority since there was certain

Beaumont

palpable irregularity while selecting the Pvt. respondent No.4. It is to be noted that none has appeared on behalf of the Pvt. respondent No.4. Since the matter is under process for scrutiny by the Administrative authority, it would be improper for us to make any in-road into their authority at this stage.

5. Accordingly, we hereby direct that the reviewing authority should examine the propriety of the appointment of the respondent No.4, who undisputedly belongs to OBC community and does not belong to ST category. The concerned authorities should also examine if adequate number of candidates were not available for ST community, whether they could have issued fresh notice inviting more candidates from that particular category rather than choosing a candidate from other category. In the facts and circumstances of the case, we also call upon the reviewing authority to examine the validity and legality of the appointment of the respondent No.4 and pass an appropriate order after giving a chance of hearing to the applicant as well as to the respondent No.4 within four months from the date of communication of this order.

6. The application stands disposed of accordingly without any order as to costs.



Member (A)



Vice-Chairman.