

9

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 510 & 636/2001

Cuttack, this the 28th day of May, 2004

IN O.A. NO. 510/2001

Kumari Urbasi Singh

.....

Applicant

Vrs.

Union of India & Others

.....

Respondent

IN O.A. NO. 636/2001

FOR INSTRUCTIONS

(1) Whether it be referred to the Respondents or not?

75

(2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

17

M.R. Mohanty
28/05/04

(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Som
29/05/04

(B.N. SOM)
VICE-CHAIRMAN

10

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 510 & 636/2001

Cuttack, this the 28th day of May 2004

CORAM:

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

&

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

IN O.A. NO. 510/2001

Kumari Urbasi Singh, aged about 20 years, Daughter of Padmalochan Singh,
resident of Vill/PO- Asuria, P.S-Khaira, Via-Tudigadia, Dist-Balasore.

..... Applicant.

By the Advocate(s)

..... Mr. B.C. Patry

-Vrs-

1. Union of India, represented through Chief Post Master General,
Orissa, Bhubaneswar.
2. The Superintendent of Post Offices, Balasore, At/Po/PS/Dist:
Balasore.
3. Sub-Divisional Inspector of Post Offices, Soro Sub-Division, At/P.S-
Soro, Dist-Balasore.
4. Sudarsan Swain, aged about 25 years, son of Late Jaikrushna Swain
Vill/PO : Asuria, P.S. Khaira, Via-Tudigadia, Dist-Balasore.
5. Achyut Narayan Parida, aged 24 years, son of Late Uday Narayan
Parida, Vill/Po: Asuria, P.S. Khaira, Dist: Balasore.

..... Respondent(s)

By the advocate(s)

..... Mr. B.Dash

IN O.A. NO. 636/2001

Shri Sudarsan Swain, aged about 25 years, Son of late Jaikrushna Swain,
Village/P.O. Asuria, P.S. Khaira, Via-Tudigadia, Dist-Balasore.

..... Applicant.

By the Advocate(s)

..... M/s. S. Das,

R.N. Mishra-II

-Vrs-

1. Union of India, represented through Chief Post Master General,
Orissa, Bhubaneswar.
2. The Superintendent of Post Offices, Balasore, At/Po/PS/Dist:
Balasore.

3. Achyut Narayan Parida, aged 24 years, son of Late Uday Narayan Parida, Vill/Po: Asuria, P.S. Khaira, Dist: Balasore.

By the advocate(s) Mr. B.Dash(ASC)
Mr. K. Ch. Pradhan (For R-3)

ORDER

SHRI B.N. SOM, VICE-CHAIRMAN

Since both the above mentioned O.As pertain to common question of facts and law, we dispose of both the O.As through this common order for the sake of convenience, we may as well refer to O.A. No.510/2001.

O.A. No.510/2001 has been filed by Smt. Urbasi Singh, challenging appointment of Respondent No.5 as Extra Departmental Branch Post Master (in short EDBPM) Asuria Branch Post Office in response to the vacancy circular No. B/E-122 (recruitment dated 14.05.99) by Respondent No.2 ,

2. The case of the applicant is that in response to the vacancy circular dated 14.05.99 she had applied for the post and being a resident of the Asuria village, having landed property, independent means of livelihood and having passed matriculation in 1st division she was expecting her selection to the post. The post was advertised to be filled up by a reserved community candidate. In case no candidate from reserved community will be available the selection will be made out from the other community candidates. However, to her dismay Respondent No.2 selected Respondent No.5 although he had submitted an income certificate which was considered

4

102

to be a wrong one and the same was challenged by Respondent No.4 before the Sub-Collector Balasore vide Miscellaneous Appeal No.92/01. In spite of the above deficiency in the candidature of Respondent No.5 the Respondent No.2 is going to offer appointment to Respondent No.5. She has therefore challenged this appointment being illegal & malafide in nature.

3. The Respondents have refuted the allegations made by the applicant and have called her application being mis-conceived and without merit. They have submitted that the post having been reserved in the first instance for ST community failing which preference to be given to SC/OBC candidates, the Respondents having found six ST candidates who had applied, not eligible, and the number of SC candidates who applied for the post was less than 3 in number, the selection was made out of the OBC group of candidates who were 5 in number. On consideration of inter-se merit of the 5 OBC candidates one Shri Achyutanarayan Parida, i.e., the Respondent No. 5, who had secured highest mark and had fulfilled all the eligible conditions was selected and joined the post on 04.09.01. On the other hand, the applicant was a general community candidate and therefore she could not be considered for appointment against a reserve vacancy. Further that she did not fulfill independent income/landed property

6

13

condition. They have further submitted that the Miscellaneous Application No.37/01 in the Court of Sub-Collector, Balasore, regarding cancellation of income certificate of Respondent No.5 was finally disposed of vide order dated 16.10.01 as time barred. However, as directed by Sub-collector, Tahasildar, Soro, carried out verification in Miscellaneous Case No.358/99 dated 30.01.02, issued a revised income certificate vide his order dated 02.01.02 in respect of Respondent No.5.


4. We have heard the I.d. Counsel for the rival parties and have also perused the records placed before us.

5. A short question for answer in this O.A. is whether the candidature of the applicant could have been ignored in the matter of selection of the EDBPM for Asuria Branch Post Office. The admitted fact of the matter is that the post in question was notified to be filled up by a candidate from ST community. In the said notification dated 14.05.99 Annexure-2 it was further stated that

“ in case the minimum number of three eligible candidates of ST community do not offer their candidatures, the vacancy in question will be treated as un-reserved and offer to the candidate belonging to other reserved category like SC and OBC or other community (General) candidates if they apply for the post”

4

6. It has been disclosed by the Respondents in their counter that they had received in all 24 candidates, consisting of six candidates from ST community, two from SC community and five from OBC community, remaining being from general community. They have further disclosed that all the six ST candidates were found un-suitable. The SC group consisting of two number and hence no selection was being made out of that list. There fore the selection was made from out of the OBC group in consonance with the procedure laid down in their vacancy circular. As the post was earmarked for selection of a candidate from the reserved community, the applicant cannot be having any grievance when the selection^{is} being made out of OBC group and the selection has been done strictly following the procedure laid down in the vacancy circular. The allegation brought forth by the applicant against the Respondent No.5 regarding production of fake income certificate has also been found to be factually in- correct in view of the order passed by Tahasildar, Soro in Miscellaneous Case No. 358/99 dated 30.01.02. In result, this O.A. fails being devoid of merit. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar