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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

O.A.NO. 627 OF 2001

Cuttack, this the day of April, 2004

S.N. ROY

.....

Applicant

Vrs


UOI & ORS

.....

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?


(S.K. NAIK)
MEMBER(A)


(B. PANIGRAHI)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH
CUTTACK

O.A. 627/2001

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

Sri Surendranath Rout

- v e r s u s -

Union of India and Ors.

For the applicant : Mr. D.P. Dhalsamant, counsel.
For the respondents : Mr. B. Dash, counsel.

Date of order: 16.04.2004.

O R D E R

S.K. Naik, AM

By virtue of this application, the applicant Shri Surendranath Rout seeks a direction from the Tribunal to the respondents, in particular respondent No.2, to appoint him to the post of EDBPM, Katna B.O.

2. The brief facts of the case are that the applicant was initially appointed as EDDA, Katna B.O. w.e.f. 15.2.1979. Shri Chaitanya Charan Panda who was working as BPM at the same place viz. Katna, was due for superannuation on 7.2.2001. Keeping in view the anticipatory retirement, the respondents initiated necessary steps to fill up the vacancy and issued notification dated 5.9.2000 by which the District Employment Exchange, Kendrapara was requested to supply a list of candidates stating therein that the vacancy was reserved for the ST category to be followed by SC, OBC and OC and fixing the last date as 6.10.2000. It has been stated by the respondents in their counter that due to inadequate representation of candidates from the reserved category, the selection to the said post could not be finalised and a second notification had to be issued which is dated 25/29.6.2001 asking for applications from



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candidates belonging to the reserved category etc. by 18.07.2001. It was reiterated in the said notification that the post was reserved for ST candidate to be followed by SC, OBC and OC. Since the process of obtaining adequate number of applications and selection took considerable time and in the meanwhile the regular incumbent Shri Chaitanya Charan Panda superannuated on 7.2.2001, the applicant who was already working at the same place as EDDA was asked to hold the additional charge of the B.P.M. w.e.f. 7.2.2001. This was ordered to be done in addition to his own duty of EDDA which was to be terminated on joining of the selected candidate.

3. The applicant also applied for the post of EDBPM in response to both the notifications issued by the respondents, but he apprehends that the respondent No.2 is going to select another person to the post of EDBPM ignoring his claim. Hence this O.A.

4. Ld. counsel for the applicant has based the claim of the applicant on the basis of his experience as EDDA for a number of years at the same place and has also relied the circular of 1988 of the respondents. The respondents have stoutly contested his claim.

5. Ld. counsel for the respondents has countered the argument advanced by the ld. counsel for the applicant by contending that no automatic legal right is vested on an EDDA for being appointed to the post of EDBPM by virtue of his length of service in that post. Referring to the claim of the ld. counsel for the applicant that the circular of 1988 in which it has been stated that a working EDDA should be considered for appointment to the post of EDBPM, even if his application

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is not sponsored by the Employment Exchange, Id. counsel contends that the said circular also clearly states that concerned EDDA has to express his willingness by filing his claim for being considered for the post of EDBPM at the same place. In the case in hand, the counsel states that the applicant has neither made such an application nor has yet expressed his willingness. On the contrary, he has applied for the post of EDBPM as an open market candidate in response to the notification issued by the respondent No.2. Further the Id. counsel contends that in a catena of judgments (O.A. 284/96, O.A. 13 of 1999 and 64 of 1999) of the Tribunal it has been held that the circular of 1988, on which much reliance is being placed by the Id. counsel for the applicant, was issued only as an exception and did not confer any legal right to be appointed straightway as EDBPM and the concerned EDDA could only be considered along with other candidates even if his name was not sponsored from the Employment Exchange. Another aspect has also been argued that the post is reserved for ST category and, therefore, no circular or instruction could provide an automatic claim on the post, if the concerned EDDA did not belong to that category. Finally, Id. counsel has contended that the applications of all the candidates who applied for the post of EDBPM, Katna in response to both the notifications including the application of the applicant in this O.A. were taken into consideration and a check sheet of the eligible candidates was drawn up. Since no ST candidate was found eligible for the post, the respondents proceeded to consider the candidates in the second preference i.e. SC community which had a full panel as required and one of the SC candidates securing highest percentage of marks amongst others viz. Shri Prasana Kumar Mallick has been selected. The Id. counsel has also highlighted the fact while Sri Mallick, the SC candidate has secured 51.33% marks, the applicant Sri Surendranath Rout who belongs to the OC category has

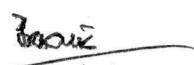
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to his credit only 36.62% marks on all the counts. Therefore, the Id. counsel contends that the applicant has no case and the O.A. deserves to be dismissed.

6. We have carefully considered the contentions raised by the Id. counsel for the parties and also have perused the records of the case. The relief sought by the applicant relates to a direction from the Tribunal to appoint him as EDBPM, Katna B.O. However, we find that the Id. counsel for the applicant has not been able to establish his claim for the post. Mere reliance on the proof of experience on the post of EDDA will not automatically entitle him to be posted as the EDBPM. As has been rightly explained by the Id. counsel for the respondents, the applicant has not even filed his claim in the form of willingness to be considered under 1988 circular of the respondents. Further the import of the circular having been discussed in a number of judgments of the Tribunal, even if he applies, he could not have been considered for the post ignoring the fact that it was reserved for ST candidate and the applicant belongs to the general category. Finally, we find that the SC candidate who has now been selected stands far ahead of the applicant in terms of merit as he has secured much higher percentage of marks (51.33%) than that of the applicant.

7. In the result, the application hopelessly fails and is dismissed without any order as to costs.


Member (A)


Vice-Chairman.