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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.1286 of 2003
Cuttack, this the 8th day of Feb. 2005

Shri Premananda Bag

..... Applicant

-VERSUS-

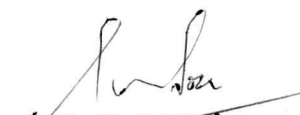
Union of India & others

..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not ? 75
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? 75


(J.K.KAUSHIK)
JUDICIAL MEMBER


(B.N.SEN)
VICE-CHAIRMAN

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CUTTACK BENCH: CUTTACK

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CORAM;

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

AND

HON'BLE SHRI J.K.KAUSHIK, JUDICIAL MEMBER

....

Shri Premananda Bag, 39 years ,S/o. Sri Prahallad Bag,Vill/Po;
Sunamudi, Via:Patnagarh Rampur, Dist: Bolangir.

..... Applicant

Advocates for the applicant

..... Mr.P.K.Padhi

Versus-

1. Union of India, represented by it's Chief Post Master General (Orissa Circle) At/Po: Bhubaneswar, Dist. Khurda-751001.
2. Superintendent of Post Offices, Bolangir Division, At/Po/Dist: Bolangir.
3. Sub Divisional Inspector (Postal) Patnagarh Sub Division, At/Po: Patnagarh Dist: Bolangir-767025.
4. Sri Rajindra Kalasai, GDS MC, At/Po: Deulgaon, Via: Patnagarh Rampur, Dist: Bolangir.

..... Respondents

Advocates for the Respondents

..... Mr.U.B.Mohapatra.

.....

O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN: Shri Premananda Bag has filed this O.A. challenging the selection of Res.No.4 as GDS MC of Deulagaon and has prayed for a direction to be issued to the Res.No.2 to appoint the applicant and also to direct the Respondents to fill-up the post by a SC candidate.

2. The grievance of the applicant who is a SC candidate ^{the} is that ~~the~~ post of EDMC/GDSMC 'B' fell vacant on superannuation of the previous incumbent who was ^a SC official. When the post was advertised through public notification dtd.8.1.93, although there was shortfall in SC Community in Bolangir Division, the post was not reserved for SC but was notified as an un-reserved vacancy. It was also notified in that advertisement the selected candidate shall have to reside within the originating/terminating point or any village under it's jurisdiction. His further submission is that although he was qualified in all respects and has submitted his class-VIII mark sheets, the Res.No.3 instead of assessing the inter-se merit of the candidates on the basis of Class-VIII marks, carried out selection of the candidate from out of the matriculates who had responded to the notification. He has also alleged to the Res.No.3 that the Res.No.4 had not submitted his HSC certificate alongwith the application but his submission was overlooked by the Res.No.3. Thus the selection of the Res.No.4 was carried out in an illegal manner which was arbitrary and malafide in nature.

3. The Respondents have resisted the application stating that the said post of GDS MC was never reserved for SC Community. They have clarified that the vacancy being the first vacancy of the year 2003, the post was offered to the candidates from un-reserved community as per the instructions/guidelines of Chief Post Master General (Annexure-R/1). They have also denied that there was any irregularity in the selection. They have stated that as per the recruitment rules for the post of

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GDS MC minimum education qualification has been prescribed as that of Class-VIII; but provision has been made there itself that preference will be given to the candidates who are matriculates. They have disclosed that in response to the public notification as well as requisition placed with the Employment Exchange, 40 applications were received and the most meritorious of the candidates, namely, Rajendra Kalasai who secured highest marks in matriculation was selected. Before appointment was given to the selected candidate, the certificates/documents submitted by him were verified by Res.No.3 and was found to be genuine. They have also contested the contention of the applicant that the shortfall in SC Community was maximum in that sub-division. On the other hand, by giving full details of the community wise shortfall(Sub-division), they have disclosed that the representation of SC Community was far in excess of 15 percent whereas the maximum shortfall was in the category of OC.

4. Having regard to the above facts of the case, they have submitted that the applicant who secured only 33 percent marks in matriculation and as there were several candidates who had better merit than him, he could not have any grievance to ventilate.

5. We have heard the Ld.Counsel for both the sides and perused the records placed before us.

6. Having regard to the facts brought out by the Respondents in their counter, the O.A. appears to be misconceived. The O.A. is also liable to be dismissed on the ground that the law is well settled that the applicant

having participated in the process of selection has no right to challenge that recruitment process after having failed to make the grade in the competition. For these reasons, we see no merit in this O.A. which is accordingly disposed of. No costs.



(J.K. KAUSHIK)
JUDICIAL MEMBER


(B.N. SOM)
VICE-CHAIRMAN

SAN/