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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.486 OF 2006

Cuttack, this the 2nd day of February 2007

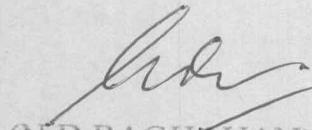
Surendra Nath Panigrahi Applicant

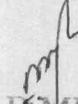
VERSUS

Union of India and others Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *No*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *No*


(N.D.RAGHAVAN)
VICE-CHAIRMAN


(B.B.MISHRA)
MEMBER(ADMN.)

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Cuttack, this the 2nd day of February 2007

CORUM:

HON'BLE SHRI N.D.RAGHAVAN, VICE-CHAIRMAN
AND
HON'BLE SHRI B.B.MISHRA, MEMBER(ADMINISTRATIVE)

In the matter of:-

Surendra Nath Panigrahi, aged about 42 years, S/o-Banamali Panigrahi,
At/P.O.: -Boita, Via:-Khantapura, Dist-Balasore.

..... Applicant

Advocates for the Applicant M/S.D.P.Dhalsamant,
P.K.Behera.

VERSUS

1. Union of India represented through its Director General, Department of Posts, Ministry of Communications, Government of India, Dak Bhawan, New Delhi-110001
2. Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
3. Director of Postal Services, Office of the Post Master General, Sambalpur Region, Sambalpur-768001.
4. Superintendent of Post Offices, Sambalpur Division, Sambalpur, At/P.O./Dist.: -Sambalpur.

..... Respondents

Advocates for the Respondents Mr.P.R.J.Dash(R-1 to 4)

ORDER

HON'BLE SHRI B.B.MISHRA, MEMBER(ADMN.)

Heard Mr.D.P.Dhalsamant,Ld.Counsel for the Applicant and Mr.P.R.J.Dash,Ld.A.S.C. for the Respondents.

2. Applicant has filed this O.A. under Section 19 of the AT Act, 1985 and seeks to quash the order dated 07.10.2005(Annexure-2) and to direct the Respondents to appoint the Applicant to the post of Postal Assistant under Ex-Servicemen quota retrospectively and allow the application with cost. Interim order was sought for issuance of direction to the Respondents not to fill-up the post of Postal Assistant and the same was passed on dated 09.06.06 saying not to fill up one post of P.A. under ex-servicemen quota without leave of this Tribunal. However by the time the interim order was passed, the selection process had already taken place.

3. It is the case of the applicant that he applied for the post of P.A. under ex-servicemen quota by filing marks-sheet of I.Sc. given by Utkal University(Fakir Mohan College, Balasore). The marks-sheet shows that he has secured 371 marks out of 900 marks. In extra optional subject he has secured 14 marks (~~after deducting 34 marks~~^R) and those marks deducted, total marks secured by him(except extra optional)come to 357. It is maintained by the applicant that despite he having secured high marks, ignoring his claim,candidates securing

less marks have been appointed. The applicant draws our attention to the communication received from the Asst.Director Postal Services(Annexure-A/2)wherein it has been mentioned as under:

"with reference to your complaint dated nil on the above subject, the matter was inquired into and I am directed to intimate that the last candidate short listed under ex-serviceman quota in Sambalpur Division has secured 341 marks without extra optional where as your total marks without extra optional comes to 340. As such you have secured less mark than the last candidate short-listed for the aptitude test in Sambalpur Division."

It is said that this is not the correct statement of fact and basing on this incorrect assumption, the applicant has been denied his legitimate due. Vide Annexure-A/4, the Respondents have asked the applicant to file fresh certificate.

4. In the counter which has been filed by the Respondents it is stated that the applicant submitted an illegible copy of Intermediate examination mark sheet and though ought to have been rejected at the initial stage of scrutiny, it was taken into consideration and having found that he secured 340 out of 900 marks(one mark less than the last successful candidate)he was not short listed. It is stated by the Respondents that the Intermediate examination mark-sheet was not legible and far from the recognition(emphasis added). In support of their submission they have filed a copy of the mark-sheet submitted by the applicant(Annexure-R/2 to the counter). Having perused the aforesaid mark-sheet, we found that it is not actually *p*

legible and is almost beyond recognition and though marks on a few subjects are discernible and total marks are not visible.

5. It is also stated by the Respondents that on being aggrieved the applicant submitted a legible copy of Intermediate examination mark-sheet and as per the illegible copy of the mark-sheet, he would not have been short-listed(emphasis added). It is further the contention of the Respondents that it was incumbent on the part of the applicant that he should have submitted a legible copy of the Intermediate examination mark-sheet at the initial stage so that his case could have been scrutinized correctly. The lapses belonged to the applicant, according to the statement of the Respondents.

6. We have carefully heard both the parties and gone through the records placed before us. Perusal of the mark-sheet (Annexure-R/2) enclosed by the Respondents purported to have been submitted by the applicant does not show the total marks secured and this point has already been highlighted. Ld.Counsel for the applicant pointed out that if the mark-sheet does not show the total mark secured, which is not legible and beyond recognition, how did Respondents come to the conclusion that the applicant had secured 340 marks. This point could not be effectively answered by the Ld.Counsel for the Respondents.

7. In the Original Application a legible copy of mark-sheet is available and it is admitted by the Respondents that had a legible copy been made available, they would have short-listed the candidate

and in course of hearing Ld.ASC did not have objection for reconsidering the case of the Applicant. Also we find much force in the statement of the applicant that he should have been considered as the Respondents reached a wrong conclusion that the applicant has secured 340 marks out of 900 marks. Now that correct position is known to them they should consider his case.

8. Hence the impugned order (Annexure-A/2) is hereby quashed and the applicant should be considered for the post within two months from the date of receipt of this order.

9. With the aforesaid direction, this O.A. is allowed. No costs.

10. Copies of this order be handed over to the Counsel for both the parties.


(N.D.RAGHAVAN)
VICE-CHAIRMAN

13/3/71
(B.B.MISHRA)
MEMBER(ADMN.)