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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH
CUTTACK

O.A. 539/2002

Date of order: 24.05.2004

Present : Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.
Hon'ble Mr. H.P. Das, Administrative Member.

P.K. Padhi

-versus-

Union of India and Ors.

For the applicants : Mr. B.S. Tripathy, counsel.

For the respondents : Mr. J.K. Nayak, counsel.

O R D E R

Per Justice B. Panigrahi, VC

Upon hearing Mr. Tripathy, ld. counsel appearing for the applicant and Mr. Nayak, ld. counsel appearing for the official respondents and on perusal of the grounds stated in the application, it has transpired that pursuant to an advertisement for the post of Gramin Dak Sevak Mail Deliverer (GDSMD) Kakudikuda the applicant along with 40 other candidates submitted their applications. The aforesaid post was meant for General category candidates. However, if minimum ^{high} ~~three~~ number of candidates of that categories were not available, then the post could be filled up by OBC candidate followed by ST candidate. Since the Employment Exchange failed to supply the sponsored candidates, a check list of all the 41 candidates who had applied for the post was prepared. From the check list it is found that respondent No.4 has secured more marks in H.S. examination than that of other 40 candidates including the applicant. Therefore, he was selected for the post of GDSMD, Kakudikuda.

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2. Mr. Tripathy, 1d. counsel appearing for the applicant has advanced his contention that the Pvt. respondent No.4, Sri Chinmaya Kumar Sahoo and another Sri Dharmendra Kumar Sahoo, belong to OBC category, but suppressing their status, they mischievously applied for the post which was meant for General category candidate. Therefore, against the post meant for general category candidates, OBC or other reserved category candidates could not have been selected. In the process, the whole selection was vitiated. Accordingly necessary direction be issued upon the authorities to cancel the selection and quash the appointment of Pvt. respondent No.4.

3. We, however, find no force in this submission of the 1d. counsel since there is no bar for reserved category candidates to apply for the post which is meant for General category. It is now well settled that a reserved category candidate can also compete with general category candidates on merit against unreserved vacancy as well. Accordingly, the Pvt. respondent No.4 having secured higher marks in H.S. Examination than that of the applicant and other candidates, and thus found ^{to be} superior in merit, his selection cannot be held to be irregular or illegal.

4. In the result, the application fails and the selection made by respondent Nos.2 and 3 is hereby upheld. No costs.

14.1.21.
Member (A)


Vice-Chairman.