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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 43/2002

Cuttack this the 30th day of June, 2003

Pabitra Nanda Beura, aged about 49 years
son of late Narendra Beura,
Vill/PO-Gobara, Via-Charbatia, Dist.Cuttack

....Applicant

Verus

Union of India and others Respondents

FOR INSTRUCTIONS

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


S. M. R. MOHANTY
MEMBER (JUDICIAL)


(P. N. S. SOM)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM :

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

AND

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

Pabitrananda Beura, aged about 49 years
son of late Narendra Beura,
Vill/PO- Gobara, Via-Charbatia, Dist.Cuttack.

.....Applicant

Advocate for the Applicant: Mr. P.K.Padhi,
Advocate

Versus

1. Union of India, represented by it's
Chief Post Master General (Orissa Circle)
Bhubaneswar., Dist.Khurda
2. Director of Postal Services (Hqrs)
Bhubaneswar, Dist.Khurda
3. Superintendent of Post offices,
Cuttack South Division, Cuttack
4. Sub-Divisional Inspector (Postal)
Athagarh Sub Division, Dist.Cuttack
5. Sri Umesh Kr.Samal (Postman)
At/PO-Alikanta, Via-Balikuda, Dist.Jagatsinghpur
6. Sri Jay Narayan Singh (Postman)
At/PO-Krishnandapur, Dist.Jagatsinghpur
7. Sri Aditya Narayan Naik (Postman)
At/PO -Gholepur, Dist.Cuttack
8. Sri Hadi Bandhu Behera (Postman)
At/PO-Daulatabad, Dist.Cuttack

.... Respondents.

Advocate for the Respondents:- Mr.A.K.Bose,
Sr.Standing Counsel.

O R D E R

MR. B. N. SOM, VICE CHAIRMAN: This Original Application has
been filed by Pabitrananda Beura with a prayer that this
Tribunal may be pleased to direct the Respondent Nos 1 to 3 to

promote him to Postman cadre with retrospective effect and to fix his seniority above the Respondents Nos 5 to 8 by quashing the order at Annexure-8 and to grant him other consequential service benefits.

2. The facts of the case in a nut shell are that the Applicant has been working as Extra Departmental Delivery Agent - cum-Mail Carrier (EDDA-cum-MC) of Gobara Branch Post office since March, 1971. Then on 20.1.2000 the Respondent No.3 issued an advertisement notifying an examination for recruitment to the cadre of Postman for the year 2000 and asked the eligible candidates to apply for sitting in the examination. He accordingly applied for the same. Later on, by means of another notification dt.16.3.2001, the vacancy position in the Postman cadre for the year 2000 was declared as below :

1. Departmental quota.	4
2. Outsider quota	<u>1</u>
Total	5

3. He further submitted that these 5 vacancies were to be divided in 50:50 ratio under Departmental quota and outsider quota and that outsider quota vacancies were to be further divided between the merit quota and seniority quota on 50:50 basis. He also submitted that as per departmental rules/instructions, the result of the seniority quota is to be declared by convening D.P.C. prior to notification of examination. In case no candidate is qualified under the seniority quota, the vacancy is added to the outsider merit quota. He further stated that one post was shown as reserved under compassionate quota which was violative of the provisions of existing rules. He submitted that this vacancy under compassionate quota should have been added to the total number of vacancies of 5 and thus making the number of vacancies to be filled up as 6 and 3 vacancies out of that should have been reserved for

outsider quota, 2 vacancies for seniority quota and 1 vacancy for compassionate quota. He also stated that as per the seniority list issued by the Respondent No.3, the Applicant is the senior-most G.D.S. candidate in Cuttack South Division but the Respondent No.3 with malafide intention misinterpreted the rules and declared 4 vacancies ~~under~~ under departmental quota and subsequently converted those vacancies to outsider merit quota. The Applicant being aggrieved by the aforesaid decision of the Respondent No.3 has approached this Tribunal for redressal of his grievance.

3. The Respondents have contested the application by filing counter. They have refuted the allegations brought-forth by the Applicant. They have stated that the vacancy calculation made out by the Applicant is erroneous in all respects. They have submitted that there were actually 7 vacancies for the year 2000 out of which 4 vacancies were allotted to departmental quota and 3 vacancies were allotted to outsider quota. Out of 3 vacancies in outsider quota, 1 vacancy fell under merit quota and 2 vacancies under seniority quota. However, in the meantime, Government had imposed restriction in filling up the vacancies under promotion & direct recruitment ~~method~~. In compliance with the aforesaid instructions, the vacancy position of the division was pruned by the Respondent No.1 as follows:

1. Outsider quota- 1 (compassionate quota)
2. Departmental quota-4 (by examination)

These vacancies as approved by the Respondent No.1 were duly circulated to all the candidates on 16.03.01.

4. The Respondents controverting the submissions made by the Applicant stated that unfilled vacancies of departmental quota are added to the merit quota for E.D. candidates. Taking this instruction into account, the Respondent No.5 to No.8

who had qualified in the examination for the year 2000 held on 25.3.01 were selected for appointment under outsider merit quota. They have also pointed out that since there was no vacancy declared under seniority quota for that year, the question of offering any one appointment under seniority quota did not arise.

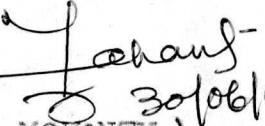
5. We have heard the counsel for both the parties and also perused the records placed before us.

6. The Applicant has prayed for fixing his seniority above the Respondents No.5 to No.8. From the facts of the case as given in the counter submitted by the Respondents and also during the oral submission by the learned Addl. Standing Counsel, it is clear that the appointment of the candidates made by the Respondent No.3 under Annexure-8 were not made under the seniority quota. In the said Memo dt.6.11.01 (Annexure-8) it was clearly stated that the appointments were being offered under outsider merit quota as no candidate under departmental quota had qualified in the examination. We have also perused the D.G.of Posts letter No.44-44/82-SPBI dt.7.4.89 (Annexure- R/4) to find out the rule position in this regard. We found that in terms of para ~~7~~ ^{and} 8 of the letter of the D.G.of Posts ~~the~~ unfilled vacancies under the quota for selection on the basis of length of service (seniority quota) are to be added to the merit quota and unfilled vacancies of the departmental quota also to be added ~~to~~ ^{the} one half of the quota meant for E.D. candidates on merit only. In the face of the above instructions of the D.G.Posts, the decision taken by the Respondent No.3 in adding the unfilled vacancies under departmental quota to the outsider merit quota cannot be faulted. In the circumstances, we find the

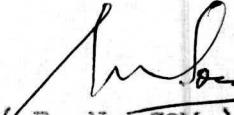
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allegations made by the Applicant misconceived. Similarly, the arguments put forth by the Applicant that utilising one post for compassionate appointments was irregular is without any merit. We also find that the vacancy calculation as made by the Applicant at para-4(v),(viii) and (xi) are not acceptable being not based on the instructions issued by the D.G. of Posts as referred to earlier (under Annexure R/4).

In sum, having regard to the facts and circumstances of the case, we see no merit in this Original Application and accordingly reject the same. No costs.


30/06/03

(M. R. MOHANTY)
MEMBER (JUDICIAL)


B. N. SOM
VICE CHAIRMAN