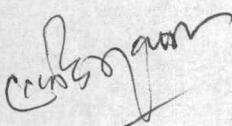


O R D E R (ORAL)

SHRI R.K. UPADHYAYA:

This application has been filed by Shri Birendra Kumar Senapati under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to absorb him in the post of Extra Departmental Branch Post Master (EDBPM) in Khanda Sahi Branch Post Office.

2. It is stated by the applicant that the post of EDBPM fell vacant in the year 2000. Therefore, Notification dated 07.6.2000 was issued by Respondent No. 4 seeking applications for the said post on or before 27.6.2000. This Notification was cancelled and a fresh Notification dated 27.2.2001 was issued. As per this Notification, the last date for receiving applications was 20.3.2001. The applicant, who belongs to SEBC category, applied for the said post. However, the applicant was not selected and the private Respondent No.6 has been selected. The claim of the applicant is that in spite of the fact that he has secured higher marks in High School Certificate Examination, he has not been selected. In the grounds taken by the applicant, it is specifically stated that the marks secured by him were higher than that of Respondent No.6. According to the applicant, he has secured 457 marks out of 750 marks whereas Respondent No. 6 has secured 435 marks in the HSC Examination. He has, therefore, urged that the selection of Respondent No. 6 be cancelled



and the applicant be appointed in his place.

3. The official respondents have opposed the prayer of the applicant and have filed a reply. In the reply filed, it has been stated that initially a vacancy was notified as reserved for ST community but this was found to be wrong. A fresh notification was issued for filling the post from other community candidates. It is stated that the applicant's case was considered along with the case of Private Respondent No.6 and others. The learned counsel of the respondents invited our attention to the check sheet filed as Annexure R-4 wherein the details of the candidates were mentioned. As per the check sheet, the applicant's name appeared at Serial No. 11. It has been shown that he secured 457 marks out of 750 marks in matriculation examination. At serial No. 33, the name of Private respondent No.6 Sri Debananda Biswal is shown and it is noticed that he has secured 503 marks out of 750 marks in matriculation examination. According to the learned counsel of the respondents, not only the respondent No. 6 but several other persons have secured higher marks than that of the applicant in the matriculation examination. Therefore, it has been stated by the learned coun-sel that the selection was in conformity with the rules on the subject and no interference by this Tribunal is called for.

4. The private Respondent No.6 has also filed a reply to the O.A. He has also filed a copy of the High School Certificate examination held in April, 1998. The marks obtained are shown as 503 out of total marks of 750.

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5. The applicant has filed a rejoinder. There is no specific denial of the facts mentioned by the official respondents in their reply. On the other hand, some attempt has been made to state that the Private Respondent No.6 has not taken residence in the jurisdictional area ^{Post} of the Branch/office. The learned counsel of the applicant tried to make out a case that even though the last date of receiving applications was 20.3.2001, the application of Respondent No. 6 was sponsored by the Employment Exchange only on 27.5.2001. Therefore, the same should have been rejected.

6. We have heard the learned counsel of the applicant as well as the official respondents. There is no appearance on behalf of the Respondent No.6. However, we have taken into account the reply filed on behalf of the Respondent No.6.

7. There is no denial of the fact that the applicant's case was considered. He had secured 457 out of 750 marks in the matriculation examination. We do not find that the case of the Respondent No.6 was bad in law as that application was received after having been sponsored by the Employment Exchange. The Respondent No.6 could not be said to be at fault on that account as he had already submitted the application. It was only the delay caused on account of

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sponsoring his name by the Employment Exchange. However, such small descrepancy even if it was should not come in the way of substantial basis for decision. Without going into further details, it can be safely said that there were several candidates who had secured more than 457 marks out of 750 in the High School Certificate Examination. From the perusal of check sheet at Annexure R-4, we find several such candidates having higher marks than the applicant in the examination which is basic qualification for recruitment to the post of EDBPM.

8. Considering all the facts and submissions made by the parties, we do not find any merit in this application and the same is dismissed as such without any order as to costs.

Mohanty
24/06/04
(M.R. MOHANTY)
Member (Judl)

Upadhyaya
(R.K. UPADHYAYA)
Member (Admn.)

'SRD'