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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 882 OF 2002
Cuttack, this the 5th day of January 2004

Shri Nityananda Sahu
Vrs.

Applicant

Union of India and others
Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? Yes
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

Seal
05/01/04
(M.R.MOHANTY)
MEMBER(JUDICIAL)

B.N.SOM
(B.N.SOM)
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

.....
Shri Nityananda Sahu, son of Bhagirathi Sahu, Village/PO Soloda, Dist. Angul
.....
Applicant

Advocates for the applicant

M/s H.K.Mallik, P.Das,
G.Mishra & C.R.Mishra

Vrs.

1. Union of India, represented through Chief Post Master General, Orissa Circle, Department of Post, Bhubaneswar, District Khurda.
2. Superintendent of Post Offices, Dhenkanal Division, At/PO/Dist.Dhenkanal.
3. Postmaster General, Sambalpur Region, At/PO/Dist.Sambalpur.
4. Sri Chittaranjan Pradhan, S/o Jayananda Pradhan, At Soloda, P.S. Colliery, Dist.Angul Respondents

Advocates for the Respondents

Mr.S.B.Jena, ACGSC for R 1
& 3
and
M/s A.K.Mishra, J.Scngupta,
D.K.Panda, P.R.J.Dash & G.Sinha

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Shri Nityananda Sahu challenging the order of Respondent No.2 in selecting Respondent No.4 for appointment to the post of Extra-Departmental Branch Post Master(EDBPM, for short), Solada.

2. The case of the applicant is that he possesses an excellent academic record by passing HSC Examination in First Division in the year 1991 and had also registered his name for employment with the District Employment Exchange, Talcher. With this background, he had applied for the post of EDBPM, Solada, in response to the letter that he had received from Respondent No.2, i.e., the Superintendent of Post Offices, Dhenkanal Division. While expecting news about his selection, he was surprised to know that one Shri Chittaranjan Pradhan (Respondent NO.4), who had passed HSC Examination in Third Division, had been selected for the post ignoring his better claim. Aggrieved by the arbitrary selection of Respondent No.4, he represented to Respondent No.2 against the wrong selection, but to no effect. He has, therefore, alleged that the selection of Respondent No.4 has been done with mala fide intention and for reasons best known to the Respondents. He has further submitted that selection of Respondent No.4 is in violation of the Rules governing recruitment to the post of

EDBPM. He has, therefore, prayed for quashing the selection/appointment of Respondent No.4.

3. The Respondent-Department, while admitting the facts of the case, have submitted that they have not committed any procedural error in the matter of selection to the post of EDBPM, Solada. They have disclosed that Shri Chittaranjan Pradhan (Respondent No.4) was appointed provisionally on 5.4.2000. Before the selection, Respondent No.4 had submitted a copy of the Income Certificate issued in his favour by the Tahasildar, Talcher, on 9.7.1999. After about one year of his appointment, the Tahasildar, Talcher, cancelled the income certificate issued by him to Respondent No.4. On obtaining this information, Respondent No.2 called for the Income Certificate along with other documents from Respondent No.4 for considering his eligibility to continue in the post. After considering the matter, it was decided by Respondent No.2 that Respondent No.4 was not fit to be retained in the post. He was accordingly issued with a termination notice dated 31.7.2000 under Rule 6 of ED Agents (Conduct & Service) Rules, 1964. Respondent No.4 being aggrieved carried the matter to this Tribunal in OA No.394 of 2000. The Tribunal was pleased to order that services of the applicant (Respondent No.4 in this case) could not be dispensed with without giving him an opportunity to defend his case. In obedience to the said order of the Tribunal, the applicant (Respondent No.4 in this



case) was allowed to continue and a showcause notice dated 22.4.2002 was issued with a direction to show cause, within one month, as to why his service should not be terminated on account of cancellation of Income Certificate by the revenue authorities. Thereupon Respondent No.4 again brought the matter before the Tribunal in OA No. 289 of 2002 and the Tribunal ,vide its order dated 20.5.2002, was pleased to direct the Respondent-Department not to terminate the service of Respondent No.4 without taking leave of the Tribunal.

4. The Tribunal having gone through the facts of the case in OA No. 289/2002, has come to the conclusion that since the Respondent No.4 does not possess any independent source of livelihood, he is not eligible for consideration for the post of EDBPM, Solada. As a result, his O.A. has been dismissed being devoid of merit. In the circumstances, this O.A. succeeds and the Respondent-Department is hereby directed to carry out selection for the post from among the candidates left in the fray after rejection of the candidature of Respondent No.4. The Respondent-Department had submitted in their counter dated 20/2.2002 that the relevant selection file was missing in May 2001. We hope that the file has since been retrieved and the applications of all the candidates including the one

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submitted by this applicant are available for consideration.

5. With the above observation and direction, this O.A. is disposed of.

Yadav
05/01/04

(M.R.MOHANTY)
MEMBER(JUDICIAL)

Arora

(B.N.SOM)
VICE-CHAIRMAN