

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.1143/2002
Cuttack, this the 28th day of May, 2004

CORAM:

HON'BLE MR. JUSTICE B.PANIGRAHI, VICE-CHAIRMAN
&
HON'BLE MR. H.P.DAS, MEMBER (A)

Nityananda Sahoo Applicant

Vrs.

Union of India & Others Respondents

For the applicant : Mr. G.K.Mishra, Counsel

For the respondents : Mr. S.B.Jena, Counsel

ORDER

Per Justice B.Panigrahi, VC:

The applicant has challenged the selection of respondent No. 4 to the post of EDBPM, Gopal Prasad BO. Pursuant to the advertisement dt. 18.1.2000 circulated by the respondent No. 3, the applicant, the private respondent No. 4 as well as many other candidates submitted their

applications for being considered to the post of EDBPM, Gopal Prasad BO. After check list was prepared, the private respondent No. 4 (Shri Dhuleswar Pradhan) was selected to the said post from OBC community. In the advertisement it was noted ~~that the post~~ that the post was meant for SC Category candidates. In the absence of suitable number of candidates from that community, ST candidates should be selected followed by OBC and thereafter OC candidates. The respondent No.4 undoubtedly belongs to OBC category. From the check list we have noticed some SC candidates for whom the post was meant, were available. It is not understood as to under what extraneous consideration the respondent No. 3 selected the OBC candidate depriving the claim of the SC candidates. The applicant undoubtedly belongs to OBC candidate, therefore, he could not have been considered for the said post while other SC candidates were available.

2. Mr Jena, Id. Counsel appearing for the respondents has submitted that since SC candidates could not comply with all the requirements asked for in the advertisement, therefore, they ignored the claim of the SC candidates and selected Pvt. Respondent No. 4 from OBC community. On further being asked to Mr. Jena as to what were materials required to be complied with for being considered for the said post, he submitted that income certificate as

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well as the residential certificate were not being furnished by SC candidates.

Since those requirements can only be complied with after merit list is prepared and not before that, therefore, the rejection of their candidature

^{herse}
~~partially~~ appears to be illegal. Even on merit we find that they secured more

marks than the Pvt. Respondent No.4 . In that view of the matter, we could

^{at all}
not approve ~~all~~ the actions taken by the respondent No.3 while appointing

the Pvt. Respondent No.4 to the post of EDBPM, ^{Yohel} ~~Gopal~~ Prasad B.O.

Accordingly we set aside the appointment of the Pvt. Respondent No.4 with

a direction to the respondent No. 3 to conduct the interview afresh of the

candidates who submitted their applications earlier. Till fresh selection is

completed, since the Pvt. Respondent No. 4 at the moment is discharging the

function of concerned EDBPM, he shall do so without any prejudice and

rights and contentions of the parties.

3. With the above observation the application is disposed of.



MEMBER(A)



VICE CHAIRMAN