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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK


Original Application No. 1162 of 2002
Cuttack, this the 28th day of January, 2005

Dolagovinda Mohapatra	Applicant
	Vs	
Union of India & others	Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?


(M.R. MOHANTY)
MEMBER JUDICIAL


(B.N. SGM)
VICE-CHAIRMAN

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CORAM :

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

AND

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

.....

Shri Dolagovinda Mohapatra, aged about 37 years, S/o. Late Balabhadra Mohapatra, At/P.O. Badaberana, P.S. Begunia, Dist. Khurda.

..... Applicant

By the Advocates

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M/s. B.P.Satapatty, B.K.Nayak,
A.Tripathy.

Versus

1. Union of India, represented through the Senior Superintendent of Post offices, Puri Division, Puri, At/P.O./ Dist. Puri.
2. Asst. Superintendent of Post offices, Khurda Sub-Divisions, At/P.O./Dist. Khurda.
3. Gadadhar Majhi, S/o. Kalandi Majhi, At/P.O. Badabarana, P.S. Begunia, Dist. Khurda, at present working as EDBPM, Badaberna branch office. (Under suspension)

..... Respondents

By the Advocates

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Mr. B.Dash(ASC)

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O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Dolagovinda Mohapatra has filed this Original Application seeking the following relief :

"It is, therefore, prayed that this Hon'ble Tribunal may graciously be pleased to admit the original application and after hearing the parties, appointment of Respondent No.3 as EDBPM of Badaberana B.O. be quashed with a further direction to the Respondent No.1 & 2 to appoint the applicant in the said post within stipulated time and any other order as deem fit be passed."

2. The facts of the case as stated by the applicant are that he had applied in response to an advertisement issued by Respondent No.1 for the post of EDBPM, Badaberna Branch Post Office. His claim is that he was qualified in all respect for the post and was the most suitable candidate for selection as EDBPM. However, Departmental Respondents did not select anyone from the applications received in response to the circular, but appointed Respondent No.3 to work as EDBPM when the incumbent of that office was put off duty with effect from 26.12.97. His allegation is that Respondent No.3 is not educationally qualified to hold that post. He, further, alleges that another notification was published on 7.4.2000 inviting application for the post of EDBPM. But, in that case also no selection was finalized till Respondent No.3 was put under suspension. He had, therefore, stated that all these actions on the part of Departmental Respondents clearly point out the irregularities committed by the department in the matter of

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selection to the post.

3. The Respondents in their counter reply have contested these allegations and have stated that the applicant is required to strict proof of the allegations so made. They have stated that one notification for filling of the post of EDBPM was issued on 7.4.2000(Annexure-R/1) with the condition that preference will be given to ST/SC/OBC candidates in descending order. However, no candidate from SC/ST community applied; only two OBC candidates responded. The applicant had also responded though he is an O.C. candidate. As the preference was to be given to the reserve community candidates, the Respondents selected one OBC candidate fulfilling all the eligibility conditions and one who secured the highest marks. In that process, one Shri Kaliprasad Sahu(OBC) was selected for the post(Annexure-R/6). They have clearly submitted that as the applicant belongs to OC community and the post was to be offered to the reserve community candidates, the applicant has no case to ventilate his grievance. They have also disputed the fact that Respondent No.3 was selected for the post showing undue favour. The fact of the matter is as the Respondent No.3 was working as EDDA of Badaberana B.O., he was asked to manage the work of EDBPM in addition to his own work. They have further submitted that the selected candidate, Kaliprasad Sahu, after joining the post on 2.4.01 resigned from it with effect from 2.2.02 and pending acceptance of his resignation, Respondent No.3 was asked to manage the post of EDBPM. During this period, Respondent No.3 committed

fraud in Branch Office account, as a result of which, he was put off duty with effect from 14.2.01.

4. We have heard the Ld. Counsel for both the parties and have also perused the records placed before us.

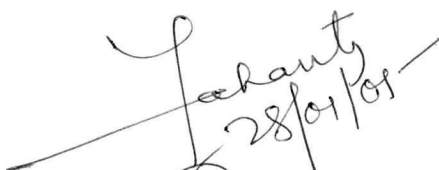
5. The main plea of the applicant is that he is the most suitable candidate for the post of EDBPM. The Respondents, on the other hand, by furnishing the check list of candidates have given details of all the candidates who had responded to the vacancy advertisement. From the comparative check list, it is apparent that ^{the} post was to be filled up by giving preference to a reserve category candidate. As the selected candidate ^{not} belongs to the reserve community, his selection can ~~be~~ called *in question on that ground*. Meritwise also, he was far superior to the applicant. Thus, the allegation of favouritism brought by the applicant appears to be misconceived. By our order dated 17.1.03, we had also directed Respondent No.1 to explain how they could make selection of the candidate for the post from the OBC community when only two candidates had offered their candidature. In the face of instructions of DG Posts vide his letter dated 19.8.98 "in case the notification and public advertisement so issued fail to elicit any response within the stipulated date or if the effective number of candidates responding is less than three, the vacancies will be re-notified....."

6. By filing an additional counter dated 29.11.04, the Ld. Additional Standing Counsel placed before us an order dated 24.11.04 passed by the Respondent No.1 that the selection of the candidate for the post of EDBPM was carried out by

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considering the candidature of all the seven candidates who had responded to the advertisement by treating the vacancy as unreserved, on the ground that only two applications had been reserved from OBC candidates and remaining five from OC. Out of the said seven candidates, the selected candidate who had secured the highest percentage of marks in HSC also happened to belong to OBC community. On the other hand, the applicant had secured only 47.14% marks, and, therefore, did not come in the reckoning.

7. Having regard to the above facts and circumstances of the case, we have no hesitation to hold that the allegations made by the applicant are misconceived, and, therefore, the O.A. is bereft of merit which is accordingly disposed of. No costs.


28/01/01

(M.R. MOHANTY)
MEMBER (JUDICIAL)



(B.N. SOM)
VICE-CHAIRMAN

RK/SD