

4

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS.06 & 507 of 2003
Cuttack, this the 5th day of , 2004

August

IN O.A.NO.06/03

Maheswar Pradhan

..... Applicant

Vs

Union of India & Others

..... Respondents

IN O.A.NO.507/03

Nigamananda Biswal

..... Applicant

Vs

Union of India & 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*

M.R. Mohanty
05/08/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

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

568
**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NOS. 06 & 507 of 2003
Cuttack, this the 5th day of August, 2004

CORAM:

**HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
&
HON'BLE SHRI M.R.MOHANTY, MEMBER (J)**

IN O.A.NO.06/03

**Maheswar Pradhan, aged about 47 years, S/o Narayan Pradhan,
at/Po:Udaypur, Dist.Puri, at present working as EDDA, Sisua
Branch Post Office, Astaranga, Dist.Puri.**

.....Applicant

By the Advocate (s)

**.....Mr.D.P.Bhalsamant
& Mr.D.K.Mohanty**

Vs.

- 1. Union of India represented through Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist.Khurda.**
- 2. Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar, Dist.Khurda.**
- 3. Sub-Divisional Inspector (Postal), Nimapara Sub-Division, Nimapara, Dist,Puri.**

..... Respondents

By the Advocate (s)

.....Mr.A.K.Bose

IN O.A.NO.507/03

**Shri Nigamananda Biswal, aged about 29 years, son of
Shri Babula Biswal, resident of Village-Khandal, PO-Balidokan,
PS-Konark, Dist-Puri.**

..... Applicant

By the Advocate (s)

**.....M/s.K.C.Kanungo,
S.Behera &
Chitra Padhi.**

Vs.

- 1. Union of India represented through the Secretary-cum-D.G. Posts, Dak Bhawan, New Delhi.**
- 2. The Chief Postmaster General, Orissa Circle, Bhubaneswar, New Capital-751 001, Dist:Khurda.**
- 3. The Sr. Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar, New Capital-751 009, Dist:Khurda.**
- 4. The Assistant Superintendent of Post Offices, In-charge of Bhubaneswar North Sub-Division, Bhubaneswar, New Capital-751001, Dist.Khurda.**
- 5. Shri Rasmi Ranjan Beura, GDS-BPM, In-Charge Mancheswar GDS-Branch Office, Via-Mancheswar Railway Station Sub-Office, Dist:Khurda.**

.... Respondents

By the Advocate (s)

....Mr.A.K.Bose (R1 to 4)

11/2/11

O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN:

Since in both the O.As. (O.A.Nos.06/03 & 507/03) common question of law is involved arising out of similar facts and circumstances, we dispose of both these matters through this common order. For the sake of convenience the facts as set out in O.A.No.06/03 are being referred to and it is directed that this common order will govern both the above mentioned O.As.

2. The Applicant in this O.A. challenges the notification issued by the Respondents on 04.02.2002 (Annexure-3) inviting applications for the post of GDSBPM of Sisua BO. His grievance is that this notification has been issued in violation of the direction of this Tribunal in O.A.No.248/01 dated 21.09.01 by not considering his case for this post though he is otherwise eligible for appointment to the said post.

3. The applicant was appointed/engaged as EDBPM of Sisua BO, when he was working as EDDA of that office from June, 1989 consequent upon superannuation of the incumbent of that post. Simultaneously, action was taken by the Respondents for regular selection for the post, and the applicant had also applied for the post. However, he had not acquired the requisite educational qualifications by that time. It was sometime after that he had passed Madhyama from Sri.Jagannath Sanskrit Vishwavidyalaya, Shri Vihar, Puri. As the Respondents were not willing to consider Madhyama

10
//3//

as equivalent to Matriculation, he had come before the Tribunal in O.A.No.248/01 and the Tribunal was pleased to order (dated 21.09.01) That in case it was found that the Madhyama Examination was equivalent to HSC Examination, then the applicant's candidature should be considered for the post of EDBPM of Sisua BO, as a fresh candidate subject to his fulfilling the other conditions. His allegation is that the Respondents have never taken pains to find out the equivalence of Madhyama Examination with HSC Examination and issued a fresh notification on 04.02.02 inviting applications for the post. He has challenged this notification being illegal, arbitrary and contumacious.

4. The Respondents have opposed the O.A. They have denied stoutly that they have transgressed the order of this Tribunal dated 21.09.01. It is their case that in fact, the Tribunal had directed the departmental authorities to make proper enquiry to find out whether Madhyama Examination is equivalent to HSC Examination, which they did find out, that the Madhyama is treated as equivalent to HSC Examination. But in the meantime, due to certain administrative reasons, the earlier notification dated 20.02.97 had to be cancelled by issuing a fresh one. They have further submitted that in response to the fresh notification, 22 applications were received both from the Employment Exchange as well as from Open Market, which included the application of the applicant. They have carried out comparative merit assessment of the candidates

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and have selected one Sri. Nigama Nania Biswal (71.42%) who was most meritorious among the candidates and possesses all other qualifications. On the other hand, the applicant had secured 50.88% in Madhyama. It is also submitted by the Respondents that as the vacancy fell under OC category, the applicant although belonged to OBC was also considered on merit. Finally, ^{as} the applicant was not the most meritorious candidate, he did not have land, in his own name and therefore, he could not be considered the most deserving candidate.

5. We have heard the Learned Counsel for both the parties and perused the records placed before us.


6. The Learned Counsel for the applicant has repeatedly urged that in pursuance of the order of this Tribunal in O.A.No.248/01, the notification made in 1997 could not be cancelled before finalising the selection from out of the candidates who had responded to that notification and which included his application also. There is not much force in this contention, because this Tribunal did not pass any order to the effect that the Respondents should first find out whether Madhyama Certificate was equivalent to HSC and then only complete the selection process following notification of 1997. Even if such an interpretation is allowed, the effect is as the notification of 1997 had to be cancelled by the Respondents on certain administrative grounds, the applicant ^{not now} can assail that action on any ground. The fact is that when the next notification was made on 04.02.02 and the applicant responded to that, his application has been


12
1/5/11

considered as per the direction of the Tribunal as a fresh candidate. But as he was not the most meritorious candidate and lacked in one of the eligibility conditions for appointment, obviously there was no scope to select him.

7. In view of the above facts and circumstances of the case, we see no infirmities in the selection carried out by the Respondents for filling up the post of GDSBPO, Sisua BO. It has been submitted in the counter by the Respondents that the Respondents are now not in a position to fill up the vacancy because of the ban order imposed by the Department in this regard. We would direct that a quick review of the establishment of Sisua BO should be carried out and the post of GDSBPO which is being managed on provisional basis since 1997, should be immediately terminated and the post filled on regular basis by releasing name of the most meritorious candidate out of the 22 candidates considered for this purpose. The provisional appointment also should be terminated as the official does not have the requisite qualification under the relevant rules for the post.

8. For the reasons discussed above both the O.As. are dismissed. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N.SOM)
VICE-CHAIRMAN