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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 171 OF 1986

Date of decision: 5.4.1991

MANORANJAN PODDAR

: APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

: RESPONDENTS

For the applicant

: M/s. Ashok Mohanty, Sisir Das,
B.R. Bal, Sashi Das,
Advocates.

For the Respondents.

: Mr. Tahali Dalai, Additional
Standing Counsel
(Central)

CORAM:

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be permitted to see the judgment?
2. To be referred to the reporters or not? Yes
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

JUDGMENT

B.R.PATEL, VICE-CHAIRMAN :

The applicant who was a Teacher working under the Dandakaranya Development Authority has approached the Central Administrative Tribunal, herein after the Tribunal, for issuance of orders directing the Respondents to promote him to the post of Trained Graduate Teacher in the scale of Rs. 440-750/- with effect from 22.12.1983 when the Respondents No.3 to 8 were so promoted; and to pay him arrear salary from the aforesaid date with all consequential other service benefits. He obtained his degree in Bachelor of Science in 1966 from the Calcutta University and went to the State of Madhya Pradesh as a displaced person in the year 1971.

2. According to the applicant he was a untrained Graduate Teacher appointed as such on 1.7.1972. The aforesaid Respondents acquired Graduation either later than him or remain under graduate till they were promoted . He also acquired in the year 1978, Post Graduate basic training from the University of Bhopal recognised by Respondent Nos. 1 and 2.

Done

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3. The Respondents in their counter affidavit have maintained that the promotion of the Respondents 3 to 8 and the applicant were duly considered according to the Recruitment Rules and whereas the Respondents 3 to 8 could be promoted to the rank of Trained Graduate Teacher the applicant could not be so promoted due to nonavailability of posts.

4. We have heard Mr. Ashok Mohanty the learned Counsel for the applicant and Mr. Tahali Dalai the learned Additional Standing Counsel (Central) for the Respondents and perused the relevant records. Mr. Mohanty has urged that the applicant was senior to many of the Respondents from 3 to 8 as untrained graduate teacher and he had prior claim to promotion than the aforesaid Respondents. The applicant according to Mr. Mohanty was the senior most among the untrained graduate teachers which was a feeder post for the cadre of trained graduate teacher. Injustice has been done to the applicant according to Mr. Mohanty for not considering his case for promotion while those junior to him had been so promoted, particularly Respondent No. 3

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was promoted on 17.12.1983 and Respondent No.4 on 5.1.1984 and Respondent No.5 in January,1984. Mr Mohanty has further averred that the applicant is a Member of Scheduled Caste namely 'Namasudra' which has been included in the Presidential orders for SC and ST for West Bengal and his Scheduled Caste status has been acknowledged by the Assistant Director, Ministry of Welfare Government of India in his letter dated 3rd January,1986 which has been quoted in the paragraph 6(o) of the application. In short, Mr. Mohanty has contended that the applicant was entitled to promotion to the post of Trained Graduate Teacher from the dates Respondent Nos. 3 to 8 were promoted, i.e. from 22.12.83 both on the basis of merit and seniority as a general candidate and also on the basis that he belongs to Scheduled Caste Community and was entitled to one of the posts reserved for Scheduled Castes and Scheduled Tribes, there being no other senior Scheduled Caste candidate. Mr. Dalai on the other hand has drawn our attention to paragraph-2(a) of the counter. On going through the paragraph, we have noticed that the Respondents have

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admitted that the applicant acquired the degree of Bachelor of Education(Summer Course) in second division in the year 1978 from the Bhopal University. A meeting of the Departmental Promotion Committee was held on 14th November, 1983 to consider the cases of all eligible candidates for promotion to the posts of Trained Graduate Teacher. There were in all nine vacancies out of which eight vacancies were to be filled up by Arts graduates and one by Science Graduates. The Post of Science graduate was for Turudhi High School. According to the Respondents the applicant was not eligible for promotion against the Trained Graduate Teacher's Post meant for trained Arts Graduates, but he was eligible for consideration against the @lone vacancy of the Trained Science Graduate Teachers. There were two candidates available for the single post namely the applicant and one Shri M.M.Subudhi. Both the cases were considered by the Departmental Promotion Committee and both were rated as 'Good'. Shri Subudhi was appointed as an untrained graduate teacher on 30.8.1969 earlier than the applicant who was appointed on 1.7.1972. As such Shri Subudhi was senior to the applicant and as both were graded 'Good'

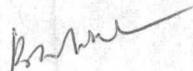
B. M. Subudhi

the senior of the two i.e. Shri Subudhi was appointed to the post of Science Graduate Teacher, Turudhi High School. As the case of the applicant has been duly considered he need have no grievance. The Respondents have further maintained that the Respondents 3 to 8 were considered for vacancies to be filled up by Arts Trained Graduates and accordingly they were recommended by the DPC and consequently promoted. The applicant could not have been considered for promotion against the vacancy of trained arts graduate posts and according to Respondents he had no right for promotion to the said Post 'in which' he could not have been able to teach the Arts subject. Thus, according to Respondents, the applicant's application against the Respondent No. 3 to 8 is misconceived and not maintainable. We have gone through the recruitment rules i.e. the Dandakaranya Project (Class III Posts) Education Organisation Recruitment Rules, 1975. In the Schedule attached to the notification dated 26.5.1975, in column-5 it has been mentioned that the post of teacher (Graduate Trained) is a selection post and against Col-10 which provides for method of recruitment, it has been mentioned that the post should be filled up by promotion

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failing which by deputation failing both by direct recruitment. In Col-11 the eligibility of candidates for promotion it has been mentioned that (Graduate Un-trained) and Teacher (Matriculation-Trained), Teacher (Intermediate) Teacher (Intermediate Trained) possessing the qualifications prescribed in Col-7 and three years service in the respective grade should be considered for promotion. Col-7 mentions the educational qualification prescribed for direct recruits and the qualifications prescribed are : Essential: (1) Degree from a recognised University or equivalent in subjects as specified; (2) Degree or Diploma in Teaching/Education from a recognised University/Institution or equivalent; (3) At least one year's teaching experience and/or educational Administration; (4) Knowledge of Hindi, Bengali or Oriya as may be required. The recruitment Rules were amended by notification dated 6th November, 1984 and were styled as Dandakaranya Project (Group 'C' Posts) Education Organisation Recruitment (Amendment) Rules, 1984 which came into force on the date of their publication in the official Gazette, a copy of this amendment is at Annexure-R/2. In Col-7 of the amended

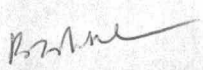


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Rules, the prescribed qualification has been mentioned and it reads as follows:

- Essential: (1) Degree from a recognised University or equivalent in subjects as may be specified.
- (2) Degree or Diploma in teaching education from a recognised University/Institution or equivalent.
- (3) At least one year's teaching experience and/or educational administration.
- (4) Knowledge of Hindi, Bengali or Oriya as may be required .

Both the original and amended Recruitment Rules provides that a Degree in the subjects specified was required for filling up of the posts of trained graduate teacher. We, therefore accept the contention of the Respondents that the applicant could have been considered for the post of trained Science Graduate Teacher and not for the post of Trained Graduate Teachers which required Arts Subjects. As the case of the applicant



has been duly considered by the Departmental Promotion Committee and it is in accordance with the Recruitment Rules we hold that the applicant need have no grievance.

5. As regards the applicant's claim for promotion on the ground of this being a member of a Scheduled Caste, the Respondents have maintained in their counter affidavit that there was only one vacancy of trained science graduate teacher and that vacancy was not reserved for a SC or ST candidate. Shri M.M. Subudhi has been selected against this post on the ground that he was senior to the applicant. As Shri Subudhi has not been impleaded as a party, according to the Respondents, the application should be dismissed for nonjoinder of parties and also for want of cause of action. They have further said that the applicant was not a resident of Madhya Pradesh and 'Namasudra' community to which the applicant belongs was not recognised as As such Scheduled Caste in Madhya Pradesh. The applicant cannot claim any concessional treatment.

6. We have considered this aspect carefully and our considered view is that since the post against which the applicant was considered was a single post it could not have been reserved and on this account

Per [Signature]

the action of the Respondents 1 and 2 cannot be faulted. The applicant has not furnished any information in the matter of reservation of posts of teacher in which the rival claims of Respondent Nos. 3 to 8 and the applicant are involved. But as the applicant was a Science Graduate and the Post available was for Trained Science Graduate Teacher and as according to Recruitment Rules candidates with qualification inspecified subjects can alone be recruited by way of promotion and as a single post cannot be reserved, We do not find any merit in the plea of the applicant for his promotion .

7. For the reasons mentioned above, the application stands dismissed. No costs.



M. K. Singh
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MEMBER (JUDICIAL) 5491

Prakash
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VICE CHAIRMAN 5491

Central Administrative Tribunal,
Cuttack Bench; K. Mohanty.