

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 377 of 1987

Date of decision 12th December, 1989

1. Bibhu Prasad Padhi,
Son of Nabin Chandra Padhi @ Pahari,
At, P.O./P.S. Aska, Dist. Ganjam.

.... Applicant

-Versus-

1. Union of India
represented by the General Manager,
South Eastern Railway, Garden Reach,
Calcutta-43.
2. Chief Personnel Officer,
South Eastern Railway,
Garden Reach, Calcutta-43
3. Divisional Railway Manager,
South Eastern Railway, At-Khurda Road,
P.O. Jatni, Dist. Puri
4. Divisional Personnel Officer,
South Eastern Railway,
At-Khurda Road, P.O. Jatni,
Dist. Puri.

..... Respondents

For the Applicant M/s. Deepak Misra,
R.N. Naik, A. Deo &
R.N. Hota.

For the Respondents Mr. R. Ch. Rath, Standing Counsel
Railway Administration.

C O R A M :

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 allowed to see the judgement ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the Judgement ? Yes.

JUDGEMENT :-

N. SENGUPTA, MEMBER (JUDICIAL) The applicant herein is the son of one Nabin Chandra Padhi, who, it is alleged, was working as a guard in the South Eastern Railway. The allegations in the application are that there was a strike of the employees of the South Eastern Railways in 1974, in which Nabin Chandra Padhi did not take part. The Railway Administration issued a circular to the effect that the children of those who remained loyal to the administration and did not take part in the strike would get suitable appointment. Nabin Chandra Padhi retired on 31.1.79. Nabin Chandra made an application for providing employment to his son, the present applicant. In response to that application of Nabin Chandra, letter No. P/R/LW/C.I.111/74 dated 12-11-1974 was issued from the office of Divisional Personal Officer, Khurda Road asking the applicant to appear at a test to be held on 20.11.74. It is further alleged that in pursuance to the above said letter, copy at Annexure-2, the applicant appeared at both the written and via-voice tests and qualified himself to be appointed to a Class-III post., but no appointment order was issued in spite of a number of representations made to Respondent No. 3 i.e. Divisional Railway Manager, South Eastern Railway, Khurda Road. Subsequently, the applicant himself made a representation on 10.4.84 to the said Divisional Railway Manager for giving him appointment and in that representation it was stated that for the mistake committed by a clerk of the Railways in mentioning the name of his father his case was not considered. Making these allegations the applicant has prayed for a direction to the Respondents to appoint him in a class-III posts in the outstanding loyal employees quota.

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2. The Respondents in their counter have stated that there was no regulation in 1974 and that the present application is not maintainable as the same relief was asked for by Nabin Chandra in an Original Application No.540/87 before the Calcutta Bench of this Tribunal which refused the relief. They have also stated that no representation in 1984 by the applicant has been received by the Administration. They have also questioned the relationship of the applicant with the Railway servant Nabin Chandra, according to them the surname of Nabin Chandra is "Pahari" and not "Padhi" and as the surname of the applicant is Padhi, he cannot be the son of said Nabin Chandra. According to them there was no such regulation as alleged by the applicant but however, the Govt. declared some incentives for those loyal employees who would not take part in the strike and one such incentive was employment assistance.

3. We have heard Sri Deepak Misra, learned Counsel for the applicant and Sri R.C.Rath learned Standing Counsel for the Railway Administration and perused the Annexures filed in this case. As it appears from Annexure-B, a copy of a letter addressed to N.C.Pahari dated 25.10.76, his representation for employment of his son against 20% quota was rejected. Therefore, the cause of action for an application by the said Nabin Chandra arose more than 3 years prior to the coming into force of the Administrative Tribunals Act, 1985 and as such an application by Nabin Chandra would not have been entertained by the Tribunal being barred under section 21 of the Administrative Tribunals Act. That apart, as Nabin Chandra had approached the Calcutta Bench of this

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Tribunal and his prayer for appointment of his son was refused, he could not have re-agitated the matter again in this Bench of the self same Tribunal.

4. Had the matter rested there, we would have had no difficulty in straight away refusing the relief claimed by the applicant but it appears that the applicant had before Nabin Chandra approached the Calcutta Bench of this Tribunal for the relief, made a representation to Respondent No. 3. Of course, the receipt of this representation is denied. If really any representation was made by the applicant in April, 1984 and if that has not been disposed of, the judgement of Calcutta Bench of this Tribunal in the case which the applicant was not a party would not dis-entitle him to maintain this application. The incentive that was to be given or promised, was to the Railway employee, however, in view of Annexure-2 we would like to say that if the present applicant makes an application and if really he appeared at the tests as alleged by him, in 1974, his case for appointment may be considered according to the rules. With this observation, the application is disposed of.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

B.R.PATEL, VICE-CHAIRMAN

I agree

Member Encl
12/12/89
MEMBER (JUDICIAL)

Arvind
12/12/89
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench
12th December, 1989/Mohapatra

