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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.197 of 1988.

Date of decision : November 21, 1989.

Rabindra Kumar Dash, son of Muralidhar Dash,
Care of Lazman Sahu, Village-Cherapadar,
P.O.Barkul, Via-Balugaon, Dist.Puri.

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Applicant.

Versus

1. Union of India, represented through the Flag Officer, Commanding-in-Chief (Headquarters), Eastern Naval Command, Visakhapatnam.
2. Flag Officer, Commanding-in-Chief (Headquarters), Eastern Naval Command, Visakhapatnam, Andhra Pradesh.
3. Commanding Officer, INS Chikka, District-Puri.

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Respondents.

For the applicant ... M/s. Deepak Misra,
R.N.Naik,
A.Deo, Advocates.

For the respondents ... Mr.Tahali Dalai,
Addl. Standing Counsel(Central)

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

JUDGMENT

B.P. PATEL, VICE-CHAIRMAN, The applicant had come up before us earlier in Original Application No.221 of 1987 with a prayer that his promotion from Group D to the post of a Lower Division Clerk (Group C) should be ordered by the Tribunal. In that case, the Tribunal delivered their judgment on 7.1.1988 directing the applicant to appear in the Typing Test. Accordingly, the applicant appeared in the Typing test held on 8.1.1988 but according to the information furnished by the respondents in their counter, he did not qualify. In this case, the applicant has sought orders of the Tribunal directing the respondents to appoint him as an L.D.C.

2. The respondents in their counter have maintained that the applicant was afforded another opportunity in arranging typing test for him and he did avail of the opportunity, took the test but unfortunately he did not qualify and as such it has not been possible for them to promote him to the rank of Lower Division Clerk.

3. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central). Mr. Misra drew our attention to the letter No. CE/2586 dated 12.2.1988 issued under the signature of Civilian Gazetted Officer, Staff Officer (Civilians), Visakhapatnam. We perused this letter in the relevant file. This letter, as is clear from para 1 was issued pursuant to the judgment of this Bench dt. 7.1.1988 Paragraph 2 of this letter reads as follows :

" It is requested that Shri R.K. Dash, Peon of INHS Nivarini may be appointed as LDC on casual basis (89 days basis) w.e.f. 01 Mar 88 against the vacancy being caused consequent on retirement of Shri AC Moharathy, LDC in INS Chilka. "

It was further directed that the individual namely, the applicant

Mr. Misra

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should be advised to acquire the requisite qualification of typewriting in English/Hindi @ 30 w.p.m. within one year from the date of employment otherwise he is not eligible for annual increments. This letter was however cancelled in May, 1988 vide letter No. CE/2586 dated 24.5.1988. Mr. Misra's contention is that the competent authority have not furnished any reason for cancellation of the order of 12.2.1988. He has therefore, urged that the applicant should be promoted temporarily to the rank of Lower Division Clerk in terms of letter dated 12.2.1988. Mr. Dalai, on the other hand, vehemently argued that since the applicant did not have the typing qualification it would not be in the interest of administration of INHS to promote him to the rank of Lower Division Clerk. He further submitted that the applicant has been afforded opportunity on more than one occasion and if he has not been able to qualify none else would be blamed but himself. Having heard the counsel for the parties and having perused the relevant file which we called for at the instance of Mr. Misra and other relevant documents, we have come to the conclusion that the applicant deserves another opportunity. We would, therefore, direct that the Respondent No. 2 consider the case of the applicant in terms of the letter issued on 12.2.1988 and the Recruitment Rules particularly col. 11 of the Rules governing the promotion.

4. This application is accordingly disposed of leaving the parties to bear their own costs.



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Vice-Chairman

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Member (Judicial)
November 21, 1989

N. SENGUPTA, MEMBER (J)

I agree.

Central Admn. Tribunal,
Cuttack Bench, Cuttack.

November 21, 1989/Sarangi,