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Date of decision: 27.2.1992

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J U D G M E N T

MISS. USHA SAVARA,
MEMBER (ADMN.)

The Original Application has been filed to challenge the selection of Respondent Nos. 5 to 8 to the cadre of Junior Technical Officer-I (in short J.T.O) (Electrical) in violation of the recruitment Rules, and the relief prayed for is that a direction be issued to the Respondent Nos. 1 to 4 to consider the case of the applicant for the Post of J.T.O., Grade-I from the date his juniors were considered and also to set aside the promotion of Respondent Nos. 5 to 8 as the selection had been made in violation of the Rules.

2. The applicant who was working in the Indian Air Force for 18 years in Electrical fitter Trade joined as J.T.O ,Grade-II (Electrical) at Aviation Research Centre on 7-4-1986. The Respondent Nos. 5 to 8 were appointed as J.T.O.,Grade-II on 1-3-1987. On 23-2-1988 a Memorandum was issued by the Chief Administrative Officer calling for applications from J.T.O.,Grade-II to fill up the vacancies in the rank of J.T.Os,Grade-I in various trades. Those J.T.Os,Grade-II, who were holding the rank of J.W.O. and above in the Airforce before their appointment in J.T.O.Grade-II in Aviation Research Centre were eligible(Annexure-R1). The last date for submission of applications was 15-3-1988. The applicant did not apply for the same because he was not J.W.O. but he was Ex-Indian Airforce(Electrical). The interview was held

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on 2.5.1988 and Respondent Nos. 5 to 8 were selected. When the applicant realised that the persons who had been appointed as J.T.Os, Grade-I were also having the same qualifications as himself, and also happened to be junior to him, he wrote that to the authorities to consider his case, but by that/the selection was over.

3. The facts are not disputed by either of the Counsel appearing for the Opposite Parties. It is the case of Mr. R.N. Naik, learned Counsel for the Petitioner that according to the recruitment rules (Annexure-1) direct recruitment for the Post of J.T.O., Grade-I could be made by "re-deployment of Ex-I.A.F person with Electrical I having 10 years experience on Airforce, Aircraft and ground installation", whereas in the Memo issued by the Chief Administrative Officer on 23.2.1988, the applications were called from "J.T.O's, Grade-II who were holding the rank of J.W.O (Junior Warrant Officer) and above in the Airforce". Since this was in violation of the recruitment rules, the selection was bad in law and should be quashed. On the otherhand, Shri A.K. Mishra, learned Standing Counsel for the Respondents submitted that the applicant did not send an application in time and therefore his case was not considered. The applicant is estopped from challenging the selection since by his own conduct he has extinguished his right to be considered for the Post of JTO, Grade-I. At this late stage, he cannot take the plea that he was not asked to appear in the interview.

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4. The entire case rests on one point - whether the Memo issued on 23-2-1988 was in conformity with the recruitment rules or not. A simple reading of the Memorandum is enough to convince us that the applicant's contention is correct and the eligibility qualifications are not the same as prescribed by the recruitment rules. For no fault of his, the applicant has been denied the chance to apply for the post of J.T.O, Grade-I and he interviewed for the same, though according to the recruitment rules, he was more than qualified for it having 18 years experience in Electrical as against the 10 years requirement of experience. It cannot be denied that, for whatever reason, the memo issued by the Chief Administrative Officer was ^{misleading and was} in violation of the recruitment rules, and the selection made on the basis of that memo deserves to be quashed.

5. However, we feel that quashing the selection at this late stage may do more harm than good. Therefore, in the interest of equity and justice, we direct that the Respondents will consider the case of the applicant for promotion to the post of J.T.O, Grade-I and if found suitable he would be given promotion from the date his juniors were promoted even by creating a supernumerary post, if necessary. The process of selection should be completed within sixty days from the date of receipt of a copy of the judgment.

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

K. Mohanty
27.12.92
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VICE CHAIRMAN



B. S. S. S.
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MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.