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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 87 OF 1989

Date of decision: 31.1.1994.

Jagannath Mallik	...	Applicant
Vs.		
Union of India & Others	...	Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *Ans*
2. Whether it be circulated to all the Benches of the *ND* Central Administrative Tribunals or not?


(H. RAJENDRA PRASAD)
Member (Administrative)

31 JAN 94


K.P. ACHARYA
Vice-Chairman


31.1.94

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 87 OF 1987

Date of decision: 31.1.1984.

Jagannath Mallik	Applicant
		Versus
Union of India & Others	Respondents
For the applicant	... M/s. J.DAS, B.S.Tripathy, K.P. Mishra, S. Mallick, S.K.Purohit, Advocates.	
For the Respondents	... Mr. Akshya Kumar Misra, Addl. Standing Counsel (Central) .	

CORAM:-

THE HON'BLE MR. K.P. ACHARYA, VICE-CHAIRMAN
&

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

ORDER

K.P. ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the stipulation "possess current Driving Licence for heavy vehicle" as has been introduced as one of the requisite qualification in Clause-4 Schedule-II of the A.R.C. (Fire Fighting) Service Rules 1976 by concurrently holding that such a rule is ultravires and void in the eye of law and violative of Article 14 and 16 of the Constitution of India and command the Opposite Parties 1 and 2 to amend the aforesaid stipulation in Clause-4, Schedule-II of the aforesaid rules and further more to quash the impugned

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order as at Annexure-7 and to declare that the Petitioner is eligible to be promoted to the post of Leading Fireman.

2. Shortly stated the case of the petitioner is that he was initially appointed as a Constable in the Aviation Research Centre (for short A.R.C.) Charibatia and after completion of Elementary Fire fighting course, the petitioner was appointed as a Fireman which was redesignated as Fire Operator. In the year 1974, the petitioner completed the basic training course in crash Fire and Rescue and thereafter the petitioner successfully completed the said course. In the year 1976, the Government of India promulgated rules regulating the method of recruitment to Class II and Class III in the A.R.C (Fire Fighting) Service Rules, 1976 (hereinafter for short called as Rules, 1976). In the rules, the Government of India made a combined Rule for three posts of the A.R.C. namely leading Fireman, M.T. Fitter Driver, and Driver Havildar although the nature of duties of these three posts is totally different. According to the Petitioner, in the Charter of duties, Fire Service Staff ^{has} ~~have~~ nothing to do with driving works or leading fireman and thus, the duties of leading fireman is of supervisory nature and no driving work is entrusted ^{to} ~~on~~ him.

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Therefore, according to the Petitioner, a Fire Operator need not be acquainted with driving work nor he has to hold a driving licence for promotion to the Post of Leading Fireman. Though the Petitioner was eligible for promotion to the post of Leading Fireman, his case was not sponsored because he did not have the driving licence for heavy vehicle. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that as per the rules, three categories of posts of A.R.C. Rules, 1976 namely leading fireman, MT fitter Driver and Driver Havildar have been combined. Promotion to the Post of Leading Fireman, MT Fitter Driver, Driver Havildar are to be filled up by 100 per cent promotion considering the cases of Fire Operators with three years service in the grade who have qualified in the refreshers course and possess current driving licence for heavy vehicles and elementary knowledge of automobile repairs. Further more it is maintained by the Opp. Parties that also LFM, a particular incumbent is required to supervise the duties of Driver Havildars and he is expected to have knowledge in driving the

vehicles. Duties of a Fireman is to assist the Driver Havildar for proper maintenance of equipments and guarding of vehicles. Therefore, possession of a Driving licence by a Fireman is mandatory according to the Rules. Hence it is finally maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. K. P. Mishra learned counsel appearing for the Petitioner and Mr. Akshya Kumar Misra learned Additional Standing Counsel (Central).

5. The short question that needs determination as to whether driving licence of a heavy vehicle is required or not. The Petitioner admits that the duties of LFM is of supervisory in nature. Once it is supervisory in nature, certainly one LFM has to be convinced ^{or satisfied} _h that the drivers working under him are capable and suitable to discharge ~~his~~ duties. If a person entrusted with the duties of supervisory work of drivers is devoid of knowledge of driving

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and equally devoid of knowledge of maintenance of equipments, he cannot be competent or efficient or eligible to supervise the work of the drivers. If the contention of the Petitioner is accepted then it would boil down to the position that a person lacking in knowledge of law is capable of supervising the duties and functions of a particular judicial officer discharging judicial functions. Therefore, we are of opinion that rightly a provision has been made in the rules that the concerned incumbent must be in possession of a driving licence of a heavy vehicle. We do not find any arbitrariness or discrimination in enacting such rules and therefore, we find no merit in this prayer which stands dismissed. No costs.

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MEMBER (ADMINISTRATIVE)
31 JAN 94

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31.1.94
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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, /K. Mohanty. 31.1.96