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(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL; CUTTACK BENCH

Original Application No. 377 of 1990

Cuttack this the 10th Day of May, 1995

Gateswar Swain

...

Applicant(s)

Versus

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? *no*

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

  
(D.P. HIREMATH)  
VICE-CHAIRMAN

10 MAY 95

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(18)

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No.377 of 1990

Cuttack this the 10th day of May, 1995

C O R A M:

THE HONOURABLE MR. JUSTICE D.P. HIREMATH, VICE-CHAIRMAN

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

...

Gateswar Swain aged about 41 years  
Son of Fagu Swain, At: Kalapatsara,  
PO: Alipingala, Cuttack, at present  
Fireman, Aviation Research Centre,  
At/PO: Charbatia, Cuttack

...

Applicant

By the Advocate: M/s. B.K. Pattnaik,  
R.C. Mohanty

Versus

1. Union of India, represented by the  
Cabinet Secretary, New Delhi
2. Director General of Security,  
Cabinet Secretariat, New Delhi
3. Deputy Director (Administration)  
Aviation Research Centre,  
At & PO: Charbatia, Dist: Cuttack

...

Respondents

By the Advocate: Shri Aswini Kumar Mishra

...

O R D E R

D.P. HIREMATH, V.C.:

In this application the petitioner


has prayed for changing his appointment by promotion  
from Driver-Havildar to any other equivalent post,  
viz. either of Leading Fireman or M.T.F. Driver which

are required the same training and qualification. The applicant, initially entered the service under the respondents as Constable on 6.10.1970, got two promotions and on 18.9.1990, having undergone requisite training in crash and fire rescue training, he was appointed as Driver-Havildar. His grievance which has led to filing of this application <sup>is</sup> contained in para 4.5 of the petition. He has stated therein that though these posts are in the same rank carrying same scale of pay he is not in a position <sup>to serve in</sup> the interest of public service and <sup>it is not</sup> in his own interest to join as Driver-Havildar. The applicant has acquired 20 years experience as a Fireman and has never been asked to drive a heavy vehicle. The applicant, <sup>of with</sup> his experience of fire fighting, if promoted as Driver-Havildar will have the satisfaction of drawing higher pay in a higher post but not having driven a heavy vehicle during last 20 years for which he possesses a licence ~~he~~ will not have his job satisfaction. Therefore, his prayer in this application is that this Tribunal shall direct the respondents to promote him as <sup>11</sup>leading fireman and not as Driver Havildar.

2. In reply to this averment, the respondents' counsel invited our attention to Annexure-5 at page 21 in a tabular form that shows the requirement

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of qualification for promotion to the three categories of posts in the same scale. A person who is promoted to any of these posts should have three years service in the grade qualifying for the posts and possesses a current driving licence for heavy vehicle and elementary knowledge of automobile repairs. Therefore, the necessity of <sup>having</sup> a driving licence is a condition precedent for those who aspire for these posts. It is also stated in the counter by the respondents that to ensure balanced distribution of eligible candidates in three categories, the Department decided to appoint the candidates approved for promotion in the manner stated therein and the applicant's name among the select list figures Sl. No.9 and therefore, as per procedure envisaged he was given the appointment of Driver Havildar. There is no violation or discrimination of the Recruitment Rules in the matter of his appointment as such. The contention of the applicant for not having the practice of driving <sup>a</sup> the heavy vehicle during the period of total service is self contradictory and not convincing as he possesses a valid heavy vehicle driving licence which is required to be renewed on regular basis subject to test by the R.T.O./M.V.I.



concerned and <sup>he</sup> there is expected to have his ability to drive heavy vehicle. Where further improvement of skill is deemed necessary, the Department arranges for training and practice driving sessions. The argument now advanced is only spurious to avoid appointment as Driver Havildar which is possibly perceived by the applicant as comparatively more strenuous.

3. Whatever may be the mental disposition of the petitioner to a particular post, it is not disputed that all these posts are equal and qualification being equal, it is for the employer in the public interest to fit in such of the candidates whom he desires to be fit in a particular post. The Tribunal cannot monitor day to day work of the Department. The apprehension pointed out by the petitioner in para 4 of his petition cannot be considered <sup>by us as the</sup> ~~as a~~ choice should absolutely be of the employer to appoint him for a post in which according to him, he <sup>is</sup> suited best. We find no merit in this application. The same is dismissed. No costs.

(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

10 MAY 95

(D. P. HIREMATH)  
VICE-CHAIRMAN

B.K.Sahoo//