

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 110 of 1990.

Date of decision: May 16, 1991.

Radhamohan Panda ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... In person.

For the respondents ... Mr. Ganeswar Rath,
Addl. Standing Counsel (CAT)

C O R A M:

THE HONOURABLE MR. B. R. PATEL, VICE-CHAIRMAN

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THE HONOURABLE 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 ? *yes*.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

J U D G M E N T

B. R. PATEL, VICE-CHAIRMAN, Briefly stated the facts are that the applicant who was a Clerk Grade I in the All India Radio (A. I. R.) Jaypore Station in the district of Koraput took the departmental qualifying examination which was held in 1981 for promotion to the rank of Head Clerks. He qualified in that examination vide results published on 30.12.1981 (Annexure-2), his position being at serial No. 41. According to the recruitment Rules, a copy of which is at Annexure-1, the posts of Head Clerks or Accountants of Senior

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Storekeepers are to be filled up by promotion - 50 per cent from amongst the eligible Clerks Grade II and Grade I and Storekeepers on the basis of qualifying departmental examination. The remaining 50 per cent of posts by promotion on the basis of seniority cum fitness.

According to the note appended to the Recruitment Rules, a common seniority list ~~is~~ required to be maintained for Clerks Grade II and Grade I/Storekeepers and Stenographers (Junior and Senior Scale) working in the All India Ration Stations and Offices located in a State or a group of States and Union Territories, as indicated ~~below~~ and promotions and transfer are to be made within a State or a group of States and Union Territories on the basis of the said list. In Orissa a common seniority list is required to be made for the employees of these ranks working in the All India Radio stations and Offices located in Orissa. According to this note, a common seniority list ^{is the} ~~was~~ ^{would} made which ~~formed~~ ^{is} the basis for promotions and transfers. After having qualified in the departmental examination the applicant represented to Respondent No.3 for posting him on promotion as Head Clerk/Accountant in the State of Madhya Pradesh where number of vacancies were available (Annexure-3). His representation was rejected on 10.3.1989 vide Annexure-5, the ground taken was that this was not in conformity with the rules on the subject. The grievance of the applicant is that the cadre of Head Clerks/Accountants and Senior Storekeepers ^{are all India} ~~are all one~~ cadres and as such anyone who has qualified in the examination has a right

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to be appointed to a post wherever available under the 50 per cent examination quota.

2. The respondents have maintained in their counter that the promotion to the rank of Head Clerks/Accountants/Senior Storekeepers will have to be made on the basis of the common seniority list as laid down in the Note to the Recruitment Rules and it cannot be done on all India basis on the strength of success in the qualifying examination.

3. We have heard the applicant in person and Mr. Ganeswar Rath, learned Additional Standing Counsel (CAT) for the respondents. The only point to be decided is whether the cadre of Head Clerks to which the applicant claims promotion is an all India cadre. We requested Mr. Rath, learned counsel for the respondents to let us know the decision of the competent authorities as to whether the cadre of Head Clerks is an all India cadre or a State cadre. It has not been possible for the respondents to produce any evidence to the effect that it was not an All India cadre. The applicant has however produced the seniority of Head Clerks cum Accountants cum Senior Storekeepers at Annexure-14 and we have found from Column 5 of the list that the names have been listed on All India basis. From col. 7 of Annexure-15 it would be further found that persons belonging to different Groups of States are included in the common seniority list as on 1.1.1981. The applicant has also filed an affidavit dated 26.2.1991. He has also mentioned in the affidavit that the respondents have promoted Junior Stenographers

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who have qualified in the All India Departmental qualifying examination to the post of Senior Grade Stenographers outside the State vide Annexures-16 & 17. This Annexure-16 is dated 30.12.1982 which is a copy of the Office order which revealed that one Shri Jagannath Maharik, Junior Stenographer ^{was relieved} of his duties at Jeypore Station ^{^ M} so as to enable him to join ^{for} ~~for~~ duty as Senior Stenographer to the Chief Engineer (R & D), A.I.R., New Delhi. In the absence of any averment to the contrary from the side of the respondents we would accept the plea of the applicant that the cadre of Head ^Clerks is an All India cadre. The Note below the recruitment rules at Annexure-1 refers to a common seniority to be maintained on the basis of a State or group of States and Union Territories and promotions and transfers are to be made within a state or group of states and Union Territories. This common seniority list according to the applicant, is for promotion on the basis of seniority cum fitness and not on the basis of success in the qualifying examination which is held on all India basis. In this connection, Mr. Panda has brought to our notice Annexure-18 which is a copy of the memorandum issued by the Director General, A.I.R. dated 3.4.1990. It refers to promotion to be made to the rank of Head ^Clerks/Accountants on the recommendation of the Departmental Promotion Committee. Since the qualifying examination is held on all India Basis and the success in the examination ultimately entitles the candidates to promotion under the 50 per cent examination quota and

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since the cadre of Head Clerks is an all India cadre we are of the view that the applicant is entitled to be promoted to the rank of Head Clerks on the basis of his success in the qualifying examination held in the month of August, 1981 on the basis of his ranking in the results published on 30.12.1981 (Annexure-2). We hold this view because success in the qualifying examination is not followed by any other test or interview or even a consideration by the Departmental Promotion Committee. In other words, the success in the examination is the final requirement for promotion to the rank of Head Clerks and the results published is infact the merit list of successful candidates under the examination quota. We would order accordingly. The applicant is entitled to consequential service benefits also.

4. This application is disposed of accordingly.
No costs.

[Signature]
16.5.91
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Member (Judicial)



[Signature]
16.5.91
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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
May 16, 1991/Saranghi.