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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH AT CUTTACK.

ORIGINAL APPLICATION NO. 318 OF 1991

Cuttack, this the 8<sup>th</sup> day of ~~Sept~~ November, 1995

K.Bhagabat Rao ... Applicant

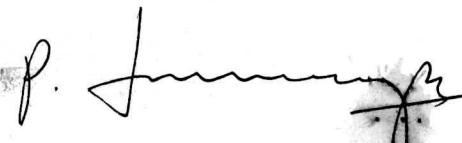
Vrs.

Union of India and others ... Respondents

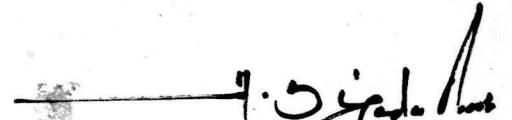
(FOR INSTRUCTIONS)

1) whether it be referred to the reporters or not? No.

2) whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.



(P.SURYAPRAKASH)  
MEMBER (JUDICIAL)



(H.RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

SEP 95

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CUTTACK BENCH AT CUTTACK.

ORIGINAL APPLICATION NO. 318 OF 1991  
Cuttack, this the 8<sup>th</sup> day of November, 1995

**CORAM:**

HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)  
AND  
HON'BLE SHRI P. SURYAPRAKASAM, MEMBER (JUDICIAL)

...

K. Bhagabat Rao,  
s/o late K.N. Rao,  
aged about 36 years,  
working as Train Transmission Hamal,  
South Eastern Railway,  
Khurda Road

...

Applicant

By the Advocates

- M/s Ganeswar Rath,  
P.K. Mohapatra &  
A.K. Patnaik

-versus-

1. Union of India, represented  
by General Manager, South  
Eastern Railway,  
Garden Reach, Calcutta-43

2. Divisional Railway Manager,  
South Eastern Railway,  
Khurda Road

3. Divisional Personal Officer,  
South Eastern Railway,  
Khurda Road

...

Respondents

By the Advocate

- Shri L. Mohapatra

...

O R D E R

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H. RAJENDRA PRASAD, MEMBER (ADMN.) The applicant, Shri K. Bhagabat Rao, appeared at a written examination for selection of suitable candidates for promotion to the post of Ticket Collectors against the Departmental Promotion quota. The said written examination was held on 30th June and 25th August, 1990. Having qualified in the written examination he was called for viva-voce test on 10.9.1991. He was not, however, selected eventually.

The applicant apprehends that he was not selected on account of the wrong seniority that was assigned to him after he joined as Cash Hamal. The relevant connected fact is that the applicant, who was initially appointed as a Shed Khalasi on 11.11.1978 in the Mechanical Wing, sought and was given a transfer as Cash Hamal in the Commercial Wing on 16.9.1982, by way of mutual exchange with one Motar Khan. The applicant contends that he should have been given the seniority of the said Motar Khan whose date of entry in the cadre of Train Transmission Hamal was 10.11.1980, whereas he has been given the seniority only from 16.9.1982. It is his grievance that the list of candidates compiled in connection with the viva-voce test for selection to the post of Ticket Collectors is based on and shows wrong seniority.

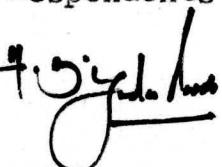
— 1.5 yd. —

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2. The applicant prays that his seniority should be correctly declared based on seniority of said Sri Motar Khan, and that he should be placed at Sl.3 instead of Sl.11 of Annexure-2. His further prayer is that he should be declared promoted to Ticket Collector since he has qualified in the written test. Among the grounds urged by the applicant for the grant of said reliefs is the one which states that, whereas there were 38 posts of Ticket Collector to be filled up, the authorities notified only 10; further that, of the 10 vacancies notified, 3 should go to reserved categories and 7 to the unreserved group. On this basis, his name should also have been included in the list of selected candidates.

3. The Respondents in their counter-affidavit submit that the seniority of the applicant was correctly fixed in accordance with Rule 312 of the Indian Railway Establishment Rules, Vol.I, and that the same had been duly communicated to him vide Annexure-R/2 to their counter. It is further submitted that a provisional seniority list of Group 'D' staff in the Commercial wing was duly published on 28.2.90 and objections were also invited. The applicant, however, did not submit any representation.

4. It is revealed, significantly, by the Respondents that the applicant was never promoted to



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Transmission Hamal since such posts belong to Operating Wing and as the applicant did not belong to the Operating Department; he was originally recruited in the Mechanical Wing and went over to Commercial Wing on mutual transfer. The question of any link with the seniority list of Transmission Hamals does not arise and is not relevant in the present case. They point out that Establishment Sl.No.554 of 61 cited by the applicant in para 4(D) has also no relevance since it concerns the seniority of officials who are given mutual transfer from one cadre to another corresponding cadre in a different Division. In this case there has been only an exchange of the Departments within the same Division at his request. They also disclose that the notification No.P5/91/C1.IV/TC dated 26.6.1989 issued by Respondent No.2, and which is produced by the applicant as Annexure-1, is not the correct or relevant circular. The correct circular is No.235/91/Gr.D/TC/SEL/90 dated 25.1.90, a copy of which has been annexed as Annexure-R/4 to their counter. They finally submit that the official was not selected as Ticket Collector because he did not qualify in the viva-voce test.

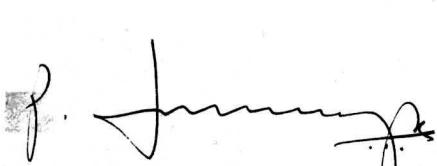
5. The applicant has needlessly confused the issue by bringing in the question of <sup>his</sup> seniority and by a ~~gratuitous~~ reference to an unconnected Transmission Hamal cadre. As far as I can see, his failure to become a Ticket Collector has

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had no link or connection with the seniority. It is simply a case where he did not qualify in the viva-voce test. Such being the situation, any detailed discussion about his seniority consequent on his mutual exchange with another official, or his link with operating department, is wholly unnecessary.

6. In view of the fact that he did not qualify in the viva-voce test, he cannot claim any reliefs prayed for. The application fails. Thus the O.A. is disposed of.



(P.SURYAPRAKASAM)  
MEMBER (JUDICIAL)



(H.RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

SEP 95

Pronounced in open Court on 8/10/95.

Kanainkarshan.

Member (Administrative)  
on tour at Cuttack.

A.Nayak, P.S