

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 502 of 1991

Date of Decision: 19.8.1993

Arakhita Behera

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 No., the Central Administrative Tribunals or not ?

VICE-CHAIRMAN

MEMBER (ADMINISTRATIVE)

19 Aug 93.

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Respondents

For the applicant

M/s. G. K. Mishra  
K. Swain  
A. K. Rath  
G. Mishra,  
Advocates

For the respondent Nos. 1 to 3 Mr. Ashok Mishra,  
Sr. Standing Counsel  
(Central Government)

For the respondent No. 6

M/s. D. P. Sarangi  
S. C. Panda  
M. Satpathy,  
Advocates

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

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

JUDGMENT

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) In this petition the applicant,

Shri Arakhita Behera, E.D. Porter, R.M.S., 'N' Division, Cuttack, has questioned his non-selection to group 'D' category as also the selection of S/Shri Dhurba Charan Rout, Madhab Kumar Barik, Pratap Chandra Behera and Abdul Muna to Group 'D' since they are juniors to him.

2. Briefly, the petitioner was a part-time Porter from 1.4.1975 to 31.6.1980 and E.D. Chowkidar from 1.7.1980 to 1984. From January, 1984, he was allowed to officiate in Group 'D' cadre in short leave vacancies.

3. Prior to 1991, the eligibility of candidates for

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for selection to Group 'D' cadre was determined on the basis of their performance and success in a literacy test which largely comprised an ability to read and write the local language, the English alphabet and numerals. In October, 1990, the Department decided to abolish the literacy test <sup>init</sup> and, resultantly, success as a pre-condition for absorbtion of E.D.D.As in Group 'D' cadre ceased to exist thereafter.

4. Shri Behera appeared for literacy test on a number of occasions upto 1990, when such a test was obligatory, but did not pass. Again during the year 1991, when a special recruitment drive was launched by the respondents to fill up the back-log of SC & ST vacancies, the petitioner's case was duly considered. But on that occasion, only 2 SC vacancies were available and the two senior most SC candidates in the gradation list were absorbed against those reserved vacancies. The petitioner, being the third on the waiting list, could not be so absorbed. Earlier, the petitioner was at one time also considered for the post of Watchman (Group 'D') in November, 1982, but was not selected being <sup>rated as</sup> not ~~considered~~ most suitable. He was also not found eligible for promotion to other Group D posts also by the Selection Committee which met on 18.11.1991 to fill up four vacant posts.

5. The explanation of the respondents is that the real eligibility of the petitioner commences only on 1.7.1980, since, prior to that date, he was working only on a part-time basis. They further explain that the petitioner repeatedly failed to qualify in any of the tests/selection held till now, because he was either inadequately qualified

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in terms of literacy (when that was the criterion for absorption in Group D Cadre) or because he was not senior enough in the divisional gradation list to be absorbed against (communal) roster points. He cannot be appointed against Test Category posts, because passing of the primary-school standard examination is still regarded as a desirable qualification. He can, therefore, be considered only for such vacancies as may arise in Non Test Category within group D cadre from time to time. The respondents are, however, keen on (and confident of) protecting his interest and state that his case will be considered for regularisation in Group 'D' Cadre in his turn. They do not rule out the possibility of his selection against one such post in foreseeable future. In such circumstances, the facts of the case having adequately been explained, the petition is disposed of with a direction that the Department, which has been utilising the petitioner's services almost continuously in some capacity or the other for the last 18 years, shall not fail to do justice by him when an opportunity arises next to absorb him in Group 'D' in the normal course, even though the petitioner is apparently totally unlettered. Thus the application is accordingly disposed of. No costs.

  
19-8-93  
VICE-CHAIRMAN

  
19 AUG 93  
MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 19.8.1993/B.K. Sahoo

