

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
CUTTACK BENCH: CUTTACK.

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Original Application Nos. 4 of 1991 & 26 of 1991.

Date of decision : 16-2-1994.

In O.A. 4/91 P.C. Paramanik Applicants.
and another.

Versus,

Union of India Respondents.
and another.

In O.A. 26/91 Judhistir Behera Applicant.

Versus,

Union of India Respondents.
and another.

(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*

1.5.1.1
(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

16 FEB 94

(K.P. ACHARYA)
VICE-CHAIRMAN.

16-2-94

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Respondents.

In O.A.26/91

Judhistir Behera

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and another.

Respondents.

In O.A.4/91

For the applicants

Mr.G.A.R.Dora,
Advocate.

For the Respondents:

M/s.B.Pal
O.N.Ghosh,
Sr.Standing Counsel(Central)

In O.A.26/91

For the Applicant:-

Mr.G.A.R.Dora,Advocate

For the Respondents:-

Mr.Ashok Mohanty,
Standing Counsel(Railway)

C O R A M :

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

A N D

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

JUDGMENT.

K.P.ACHARYA,V.C.

In both these applications under section 19
of the Administrative Tribunals Act,1985, the applicants
pray for a direction to the respondents to treat the

VN. promotion as Goods Guard on regular basis and declare that

the applicants are not required to pass any further test for the purpose of regularisation.

In O.A.26 of 1991, there is a single petitioner and in O.A.4 of 1991 there are altogether 7(seven) applicants.

2. Shortly stated the case of the applicants is that they joined Railway service on different dates in various capacities. Applications were invited for selection for promotion to the post of Goods Guard against the Departmental promotion quota of 85%, in the year 1989. The applicants turned out successful both in the written test, and viva-voce test as per the letter dated 29.11.1989 contained in Annexure-1. The applicants along with others were deputed to the Zonal Training School, Sinni for undergoing necessary training namely ' Promotional course training'. After turning out successful in the Sinni training the applicant in O.A. 26 of 1991 had also undergone 45 days section training called 'Learning Road'. The applicants were given promotion on adhoc basis to the post of Goods Guard vide letter dated 20.3.1990. The grievance of the applicants is in respect of letter dated 20.11.1990 under which the Senior Divisional Personnel Officer, S.E.Railway, Khurda Road has called upon all the petitioners who had been given promotion on adhoc basis to apply for a selection test for their regularisation. Hence, both these applications have been filed with the aforesaid prayer.

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3. In their counter, the respondents maintained that the petitioners were never empanelled in the selection which took place for filling of the posts in the year 1989 but when the matter stood thus a proposal for creation of 16 new posts of Goods Guards was initiated by the Senior Divisional Operating Superintendent, S.E. Railway, Khurda Road and the same was sent to Garden Reach, Calcutta for approval. The proposal was approved and 16 posts were sanctioned out of which 14 posts were available for promotion of departmental candidates. On receipt of the sanction order, it was decided to fill up these posts by way of adhoc promotion with certain conditions and therefore the applicants were who had been given adhoc promotion against the newly created posts were rightly called upon to appear in the selection test for regularisation especially in view of the undertaking given by them namely they will not claim any right to the posts in question. In such circumstances, ~~the~~ both the cases are devoid of merit and are liable to be dismissed.

4. In O.A.26/91 we have heard Mr.G.A.R.Dora, learned Counsel for the applicant and Mr.Ashok Mohanty, learned Standing Counsel(Railways) for the respondents and in O.A.4/91 we have heard Mr.Dora learned counsel for the petitioners and Mr.B.Pal, learned Senior Standing Counsel. Though both the cases were heard one after the other, yet we would direct that this common judgment

would govern both the cases in view of the fact that common questions of fact are involved in both the cases. From letter dated 29.11.1989 it is found that the petitioners are included in the selected list of candidates declaring that they had passed the written examination held on 11.11.1989, 12.11.89 and 19.11.1989 for the post of Goods Guard and they have been found to be eligible to appear in the viva-voce test to be held on 8.12.1989 and 9.12.1989, In the letter dated 16.12.1989. It has been ordered that the petitioners along with others have been found to be eligible for promotion to the post of Goods Guard purely on adhoc basis, subject to the condition that the candidates should give an undertaking that sending them to Sini will not confer on them any right for empanelment for regular posting as Goods Guard. Later the petitioners have been promoted to the post of Goods guard on adhoc basis. It was vehemently contended by M/s.B.Pal and Ashok Mohanty that the promotion being purely on adhoc basis and in view of the undertaking given by the applicants that they could not claim any right to the post it is too late in the day for them now to contend that they should not be asked to appear in another test.

5. We have given our anxious consideration to the arguments advanced at the Bar and we are of opinion that once the applicants have turned out successful in the written test, viva-voce test and the training undergone at

Sini, there is no justification on the part of the concerned authority to insist on the applicants to appear in another written test, and viva-voce test. We would therefore, direct the opposite parties that they should not insist upon the applicant to appear in any further test and it should be construed that in order to continue in the promotional post of Goods Guard the applicant have already qualified themselves.

6. As regards regularisation of the services of the applicants, we feel reluctant to pass any orders. We leave it to the concerned authority to consider regularisation of the applicants according to Rules without causing any unreasonable delay and incase the applicants still feel aggrieved liberty is given to the applicants to approach this Bench.

7. Thus, both these applications are accordingly disposed of leaving the parties to bear their own costs.

MEMBER (ADMINISTRATIVE)

16 FEB 94

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16.2.94

VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench/Cuttack./Hossain.
February 16, 1994.