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145
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 209 OF 1992

Cuttack, this the 26th day of August, 1999

Sri Narayan Chandra Parida Applicant

Vrs.

The Secretary, Union Public Service Commission
and another Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*,

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

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(G.NARASIMHAM)

MEMBER (JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN
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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 209 OF 1992
Cuttack, this the 26th day of August, 1999

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Sri Narayan Chandra Parida, son of Jadumani Parida, At-Tarando, PO-Kendrapara, District-Cuttack, at present working as Labour Enforcement Officer (Central), At-Plot No.637, Sahid Nagar, BhubaneswarApplicant

Advocates for applicant - M/s A.K.Misra
S.K.Panda

Vrs.

1. The Secretary, Union Public Service Commission, Dholpur House, Shahjan Road, New Delhi-110 011.
2. Union of India, represented through its Secretary, Ministry of Labour, Shram Shakti Bhawan, Raffi Marg, New Delhi.Respondents

Advocate for respondents - Mr.Ashok Mohanty

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to Union Public Service Commission (hereinafter referred to as "UPSC") to give opportunity to the applicant to compete for the advertised post along with others. The second prayer is for a direction to the UPSC not to publish the result of the interview held from 18.5.1992 to 28.5.1992 until the applicant's case is finally disposed of by the Tribunal.

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2. By way of interim relief it was claimed that in case UPSC conducts the interview as per schedule without giving the applicant to compete, then the result of the interview should be withheld from publication during the pendency of this application. The other interim prayer was for a direction to the Secretary, Ministry of Labour (respondent no.2) to keep one of the thirty-eight posts vacant during the pendency of the OA. The prayer for interim relief was finally disposed of in order dated 26.5.1992 with the direction that the result of this Application would govern the future service benefits of the petitioner. In other words, if the Application is allowed, the petitioner must be given an opportunity to appear at a fresh interview and in case he comes out successful, further benefit as per rules and law should be given. Ultimately, on another MA No. 248 of 1992 filed by the applicant, it was ordered on 27.5.1992 that the Secretary, UPSC should permit the applicant to appear at the interview in case the date of conclusion of the interview has been extended till 1.6.1992 but his result shall not be published till further orders. Again it was ordered on the same day that the applicant should be heard by Secretary, UPSC, on 1.6.1992 and the Chairman, UPSC would be well advised to extend the date of interview by a day or two so that the applicant could be given an opportunity to appear at the interview. This last order was passed subject to the condition that the applicant is not able to appear on 29.5.1992 because of paucity of time.

3. The applicant's case is that he is a Graduate and P.G. holder in Sociology from Utkal University. He joined as Education Officer in the Central Board for the Workers Education and worked as such from 1.3.1982 to 31.8.1987. He applied for the post of Labour Enforcement

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Officer (Central) in General Central Service Group-B Gazetted Non-Ministerial under the Ministry of Labour, Government of India. He was selected through UPSC and was appointed as Labour Enforcement Officer (Central) on 7.9.1987. The applicant has indicated the minimum educational qualification for the post of Labour Enforcement Officer (Central) which is at Annexure-3, i.e., the advertisement calling for applications for the post of Labour Enforcement Officer (Central). The applicant has further stated that the posts of Assistant Labour Commissioner (Central)/Labour Officer/Assistant Welfare Commissioner are all in Grade-V of Central Labour Service. These posts are filled up both by direct recruitment and promotion. The feeder grade from which promotion is made to the above post is the post of Labour Enforcement Officer. UPSC issued Advertisement No.1 which was published in Employment News 11-17 January 1992 (Annexure-4). The petitioner submitted his application on 22.1.1992 well before the last date for receipt of applications, which was 30.1.1992. The applicant has also indicated the qualification, experience and age limit for the post he applied for as mentioned in the advertisement at Annexure-4. It has been stated that the applicant, while he was working as Labour Enforcement Officer, obtained Diploma in Social Work (Labour Welfare) under the University of Calcutta. As the applicant had the requisite qualification and eligibility, UPSC received the application and allotted Roll No.363 to the applicant which is borne out by the postal acknowledgement received by the applicant, which is at Annexure-5. The applicant has stated that even though he has come out successful from the examination in Diploma in Social Work (Labour Welfare) held by the University of Calcutta in November 1991, he had not received official

communication about his success in the examination by the date of making his application for the above post. He had therefore mentioned in his application that he had appeared in the Diploma Examination conducted by the Calcutta University. The applicant later on personally obtained on 5.5.1992 his certificate of success incorporating marksheets which is at Annexure-6. After this the applicant informed Secretary, UPSC that he had passed Diploma Examination in Second Division. The applicant has stated that even though he has all the eligibility for the post applied for and ought to have received call letter from UPSC for interview, the applicant did not receive the call letter. The applicant has stated that he apprehends that call letter was not issued to him as in the application for the post he had not mentioned that he had passed the Diploma in Social Work (Labour Welfare) Examination but had intimated that he had appeared at the Examination. It is further submitted that even without the said Diploma Examination the applicant is fully qualified to compete for the post advertised and to receive the call letter. It has also been stated that the applicant is aged 37 years at the time of filing of the OA and direct recruitment to the post applied for by the applicant is made after gap of several years and by the time he is 40 years old, the applicant will lose the eligibility to appear as a direct candidate for the post. That is why he has come up in this petition with the prayers referred to earlier.

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4. UPSC (respondent no.1) in their counter have admitted that in response to the advertisement the petitioner applied for the post of Labour Officer/Assistant Labour Commissioner (Central)/Assistant Welfare Commissioner in Grade V of Central Labour Service and he was assigned Roll No.363 in the Commission's office. UPSC

have stated that the applicant was not called for interview because he did not possess the essential qualification prescribed in the advertisement for the above post. It is also stated that the applicant also did not meet the short-listing criteria adopted by the Commission. It has been stated that the right of the Commission to short-list the candidates has been upheld in many decisions of the Hon'ble Supreme Court. Respondent no.1 has also stated that on the direction dated 27.5.1992 of the Tribunal the applicant was however interviewed provisionally. But as the applicant did not possess the essential qualification, respondent no.1 has opposed the prayer of the applicant.

5. We have heard Shri Akhaya Kumar Mishra, the learned counsel for the petitioner and Shri Ashok Mohanty, the learned counsel for the respondents and have perused the records. The learned counsel for the petitioner had indicated on 10.3.1999 that he would file a petition calling for certain documents but no such petition was filed. He has filed a written note of submission which has been taken note of.

6. From the pleadings of the parties noted above, the sole question for consideration is whether the applicant had essential qualification for the post for which he applied. The qualifications have been mentioned in the advertisement which has been enclosed by the applicant at Annexure-4. These are (i) Degree of a recognised University or equivalent, (ii) Degree in Law or Post-graduate Degree or Diploma in Social Work/Labour Welfare / Industrial Relations / Personnel Management of a recognised University/Institution or equivalent, (iii) Two years experience in a responsible capacity in

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handling/dealing with labour problems in a Government establishment, industry or trade union organisation. As desirable qualification it was mentioned that working knowledge of a regional language other than candidate's mother tongue would be desirable. Respondent no.1 has stated that by the relevant date the applicant had not passed Diploma in Social Work. He had taken the examination but the results had not come out. In this case the last date for receipt of applications was 30.1.1992 and by that date the candidate should have had the essential qualifications mentioned in the advertisement. The applicant has admitted in his application that he took the examination in Diploma in Social Work (Labour Welfare) in November 1991. By the time he applied for the post, admittedly the result had not come out and the applicant has ~~stated~~ that in his application to UPSC he had mentioned that he had taken the examination but had not got the result. The applicant has later on sent marksheet which is at Annexure-6 along with a letter which is at Annexure-7 addressed to respondent no.1 stating that from the marksheets it is clear that he has passed the examination. The marksheets does not indicate the date on which it has been issued. Admittedly, the letter of the applicant addressed to respondent no.1 stating that he has passed the Diploma Certificate Examination has been sent on 5.5.1992 much after the last date for receipt of applications. The applicant has not indicated in his petition the date when the results of his Diploma Examination came out. In the absence of this, it cannot be held that by the last date for receipt of applications by UPSC the applicant had passed the examination in Diploma in Social Work (Labour Welfare). In that event he would have mentioned specifically in his application that he had passed the examination. In consideration of the above it is

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clear that as on the last date for receipt of applications the petitioner did not possess the qualification of Diploma in Social Work (Labour Welfare), UPSC was right in not calling him to the interview.

7. UPSC have also mentioned that the applicant did not meet the short-listing criteria. In view of our finding above, it is not necessary to consider this contention of respondent no.1.

8. In the result, we hold that the applicant has not been able to make out a case for the reliefs claimed by him. The Original Application is held to be without any merit and is rejected. No order as to costs. Respondent no.1 is directed not to publish the result of the interview taken in pursuance of the interim orders of the Tribunal.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

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(SOMNATH SOM)

VICE-CHAIRMAN

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