

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.345 OF 1992  
Cuttack, this the 18th day of January, 1999

PRONOUNCED IN OPEN COURT

Kumbhakarna Mallick ..... Applicant.

Vrs.

Union of India and others ..... 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*

*(Signature)*  
**(G.NARASIMHAM)**  
**MEMBER (JUDICIAL)**

*(Signature)*  
**(SOMNATH SOM)**  
**VICE-CHAIRMAN**

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**CORAM:**

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

.....

Kumbhakarna Mallick, aged about 38 years,  
son of late Kokei Mallick, at present  
77(P), Survey of India, Saheed Nagar,  
Bhubaneswar, District-Khurda ..... Applicant

Advocates for applicant - M/s Devanand  
Mishra, A.Deo, B.S.  
Tripathy, P.Panda  
and D.K.Sahoo

Vrs.

1. Union of India, represented by its  
Surveyor General, Dehradun, U.P.
2. Director, South Eastern Circle,  
Survey of India, 83-A, B.J.B.Nagar,  
At/PO-Bhubaneswar, District-Khurda, Orissa.
3. Director, Survey Training Institute,  
Survey of India, Hyderabad, Andhra Pradesh.
4. Deputy Surveyor General,  
Survey of India,  
Dehradun, U.P. .... Respondents

Advocate for respondents- M/s A.K.Bose,  
Sr.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of  
Administrative Tribunals Act, 1985, the petitioner has  
prayed for a direction to the respondents not to act on the  
circular dated 9.3.1992 (Annexure-1). His second prayer is  
for a direction to the respondents to permit the SC/ST

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candidates to appear at the Limited Departmental Competitive Examination (LDCE, for short) for more than three chances as was the system earlier and not to adopt the circular at Annexure-1 in which the number of chances for SC/ST candidates to appear at the LDCE has been limited to three like others.

2. The case of the applicant is that he is a member of Scheduled Caste community and is a Graduate with Mathematics. He had appeared at LDCE on three occasions, but had not been able to qualify. In circular dated 9.3.1992 (Annexure-1), Surveyor General had relaxed the qualification of Degree with Mathematics as eligibility to appear at the LDCE as a one time measure for 1992 examination. The applicant filed a representation at Annexure-2 stating that allowing the Graduates in subjects other than Mathematics to take the Examination as per the circular at Annexure-1 is wrong. In this representation, he also challenged the circular at Annexure-1 limiting the number of chances to three for SC/ST candidates to take the LDCE. According to the petitioner, the scheme for LDCE for selection of Officer Surveyor lays down that Degree in Mathematics or Applied Mathematics is a necessary qualification. This Scheme is at Annexure-4. It is stated that certain graduates who did not have Mathematics as a subject had filed an Original Application before the Hyderabad Bench of the Tribunal praying that they should be allowed to appear at LDCE. In that case, the departmental authorities had taken the stand that Mathematics is an essential qualification and the same cannot be relaxed. In that case, Hyderabad Bench had accepted the stand of the respondents. In view of this, the applicant has challenged the relaxation given in Annexure-1 that graduates in subjects other than Mathematics would be eligible to appear

at LDCE as a one time measure in 1992 Examination. It is stated that such relaxation has no basis or rationale. The applicant has further stated that in accordance with the circular dated 13.5.1991, SC/ST candidates could appear at LDCE for more than three chances. But by virtue of the circular dated 9.3.1992 (Annexure-1) the number of chances given to SC/ST candidates has been limited to three like candidates belonging to other categories. This has been termed by the applicant as unreasonable and that is how he has come up in this application with the prayers referred to earlier.

3. The departmental authorities in their counter have stated that LDCE was held to fill up the vacancies, but a number of posts available could not be filled up. That is why the Surveyor General as a one time measure issued the circular at Annexure-1 indicating that in 1992 Examination graduates other than graduates with Mathematics would be allowed to appear at the examination. It is submitted by the respondents that the Surveyor General is competent to issue such circular in exercise of his administrative powers. It is further stated that in order to find out efficient candidates, appearance at LDCE has been restricted to three chances for all candidates including SC/ST candidates in the circular at Annexure-1. Earlier, in the circular dated 13.5.1991 (Annexure-5) , SC/ST candidates were allowed to have more than three chances. But in the post of Officer Surveyor there is no reservation and as such the chances to SC/ST candidates have also been restricted to three like others. In view of the above, the respondents have opposed the prayers of the applicant.

4. Learned counsel for the petitioner was not present when the matter was called nor was any adjournment sought for on his behalf. In view of this, we have heard Shri A.K.Bose, the learned Senior Standing Counsel appearing for the respondents and have also perused the records.

5. The applicant has challenged the circular at Annexure-1 on two points. As regards the first point that in this circular, Graduates with subjects other than Mathematics have been allowed to appear and this is against the stand taken by the departmental authorities in the case before the Hyderabad Bench, it is to be noted that the circular at Annexure-1 makes it clear that this relaxation is made as a one time measure. The respondents have stated that in spite of holding LDCE, the vacancies could not be filled up because adequate number of persons with Mathematics as a subject in graduation could not qualify. In order to fill up the vacant posts, Surveyor General has given this one time relaxation with the approval of the Department of Science & Technology. We also find from Annexure-3 that Department of Personnel and Training have also concurred in this. As the vacancies could not be filled up by holding LDCE amongst the qualified candidates with Mathematics as one of the subjects in Graduation, naturally the departmental authorities have relaxed the qualification for eligibility for taking the examination. This is a policy decision designed to meet an administrative need of filling up of the vacant posts. The Tribunal can have no say in the efficacy or otherwise of allowing such relaxation. It is also to be noted that this relaxation has been made as a one time measure. In any case, allowing candidates who do not have Mathematics as a

subject at graduation level does not in any way affect those who have Mathematics as a subject at graduation level because their eligibility is not taken away by this relaxation. We, therefore, hold that this contention of the petitioner is without any merit, and it is rejected.

6. The second ground for challenge is on account of limiting the number of chances for SC/ST candidates to three in the circular at Annexure-1. It appears from the circular dated 13.5.1991 at Annexure-5 that earlier for SC/ST candidates there was no limit of three chances for taking the LDCE. By the circular at Annexure-1 the chances for all candidates, General, SC and ST, have been limited to three. The respondents have stated in paragraph 6 of their counter that in the post of Officer Surveyor there is no question of reservation and in fact there is no such reservation for SC/ST in the post of Officer Surveyor to be filled up through LDCE. In view of the fact that there is no reservation in the post of Officer Surveyor, we hold that no illegality has been committed by the departmental authorities to limit the number of chances for SC/ST candidates to take the examination to three as in the case of other candidates.

7. In consideration of all the above, we hold that the Application is without any merit and the same is, therefore, dismissed but without any order as to costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

(SOMNATH SOM)  
VICE-CHAIRMAN