

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACKBENCH: CUTTACK.

Original Application No. 432 of 1992.

Date of decision : December 13, 1993.

Arun Kumar Das ...

Applicant.

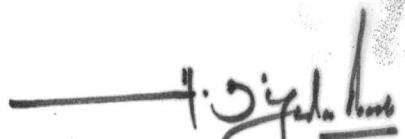
Versus

Union of India and others ...

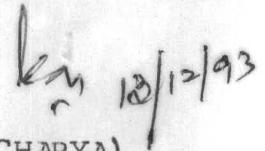
Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ?


(H. RAJENDRA PRASAD)
MEMBER(ADMINISTRATIVE)

13 DEC 93


(K.P. ACHARYA)
VICE-CHAIRMAN.

km 13/12/93

(10)

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Respondents.

For the applicant ...

M/s. P. V. Ramdas

B. K. Panda,

D. M. Mohapatra,

M. B. K. Rao, Advocates.

For the respondents ...

Mr. Ashok Misra,

Sr. Standing Counsel (Central)

C O R A M:

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

A ND

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

O R D E R

K. P. ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to the respondents to consider the case of the applicant for the post of Cable Splicer.

2. Shortly stated, the case of the applicant is that he entered into service on 25.11.1968 and after regularisation he was given promotion to the post of Lineman in the Telecommunication Department with effect from 24.2.1984. Certain incumbents were to be appointed as Cable Splicer. According to the applicant, he had successfully completed the required training period

VR and in response to a notification dated 10.12.1991 he

had made an application for appointment to the post of Cable Splicer. The request of the applicant not having been acceded to, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the applicant does not comply with the ingredients laid down in the P & T Department (Cable Splicer Recruitment) Rules, 1980 and hence his case does not deserve consideration. In a crux, it is maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. P. V. Ramdas, learned counsel for the applicant and Mr. Ashok Misra, learned Senior Standing Counsel (Central) for the respondents.

5. Mr. Ramdas emphatically submitted before us that the applicant has undergone the required period for training as Cable Splicer which was very seriously disputed by Mr. Ashok Mishra on the basis of the averments finding place in the counter, and it was furthermore submitted by Mr. Ramdas that the applicant had not been called to the written test and therefore, there was no laches on the part of the applicant for not having appeared in the written test. To this argument advanced by Mr. Ramdas, learned Senior Standing Counsel (Central), Mr. Ashok Misra submitted that the question of calling the applicant to undertake the written test does not arise because one of the ingredients contained in the Rules is that by 1.7.1991

an incumbent must be below 40 years and admittedly the date of birth of the applicant being 12.3.1950, the applicant had crossed the age of 40 years by the relevant date and therefore, he was rightly not called to undertake the test. Mr. Randas took us through the contents of Annexures-R/1 which contained the rule on the subject. Ofcourse there is a power for relaxation of some of the ingredients which qualifies a particular person to hold the post of Cable Splicer. But it is the Central Government which has the powers to relax. In the circumstances stated above, we would direct the applicant to file an application before the competent authority to consider relaxation as per Rule 7 and we have no objection if the Central Government orders relaxation. But it all depends on the competent authority. We hope and trust the matter would be sympathetically considered in view of the long service rendered by the applicant.

6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

MEMBER (ADMN)
13 DEC 93

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Central Administrative Tribunal,
Cuttack Bench, Cuttack.
December 13, 1993/Sarangi.