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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.504 OF 1992  
Cuttack this the 14/12 day of December, 1999

Binod Kumar Pradhan & another

Applicants

-Versus-

Union of India & Others

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Yes.*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *NO.*

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN 14/12/99



*14.12.99*  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.504 OF 1992  
Cuttack this the 14<sup>th</sup> day of December, 1999

CORAM:

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

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1. Sri Binod Kumar Pradhan, aged about 35 years, S/o. Late Simon Pradhan, Qr.No.L/63 A, Railway Colony, At/Po/Town/Dist: Puri-752002, working as Air Conditioned Coach Attendant, Office of the Electrical Foreman, S.E.Railway, Puri
2. R.Sankar Rao, aged about 33 years, S/o.R.Sanjeeva Rao, At: Hatabazar, Mohapatra Colony, PO/PS:Jatni, Dist: Puri, working as Khalasi, Office of the Electrical Foreman, S.E.Railway,,Bhubaneswar

Applicants

...  
-Versus-

1. Union of India, represented by the General Manager, South Eastern Railway, Garden Reach, Calcutta-43
2. Divisional Railway Manager South Eastern Railways, Khurda Division, At/Po/PS: Khurda Road, Dist: Puri
3. Divisional Personnel Officer, South Eastern Railways, Khurda Division, At/Po/PS: Khurda Road, Dist: Puri
4. Divisional Electrical Engineer, South Eastern Railway, Khurda Division At/Po/PS: Khurda Road, Dist: Puri

Respondents

For the applicants : Mr.D. P. Sarangi

For the Respondents : Mr.D.N.Mishra  
Standing Counsel  
(Railways)

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ORDER

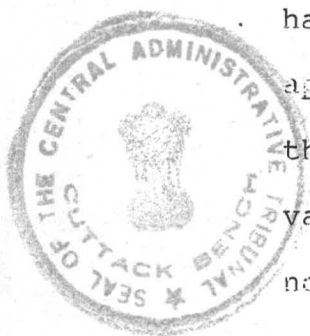
MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicants, who are serving in the Group C Section of the Electrical Department under the Respondents (Railways) in Khurda Division, in this application filed on 30.9.1992 pray for quashing the order dated 7.4.1992(Annexure-2) relating to selection for promotion as Skilled Artisan in the scale of Rs.950-1500/-(RP) against 25% departmental promotion quota and also Annexure-1 dated 1.8.1991, inviting applications from the departmental candidates which ultimately resulted in the selection list published under Annexure-2.

There are three independent seniority groups under the General Services in Electrical Division of Khurda Division. They are : Group-A concerning power supply/water supply/transmission/distribution, Group B concerns with Train Lighting/Engine Head Light and Group C relates to Air Condition/Refrigeration. The channel of promotion is from Khalasi (Rs.750-940/-) to Khalasi Helper(Rs.800-1150/-) and from them to Skilled Grade-II(Rs.950-1500/-). The promotion to Skilled Gr.III <sup>was</sup> made under two modes, i.e., 50% of the vacancy is by regular promotion and 50% by direct recruitment. This was as per the instructions dated 2.9.1976 of the Chief Personnel Officer. Subsequently 50% direct recruitment quota was changed as per instruction dated 19.3.1979. As per this instruction 25% would be filled up from amongst Semiskilled and Un-skilled staff with educational qualifications as laid down in the Apprentices Act, but should be given appropriate training before they are



absorbed in the skilled cadre and 25% by selection from Course Completed Act Apprentices I.T.I. Panel candidates and Matriculates from open market.

2. The case of the applicants is that though an employee of Group C may perform the work of Group A or B, but employees of Group A or B cannot perform the work of Group C. Each group is made through distinct and separate examination as different types of questions have to be asked to test the candidates to each group. Further, vacancies in each Group should be clearly stated while taking steps in filling up of the posts in each Group. Notice dated 1.8.1991, inviting applications (Annexure-1) not having specified the vacancies in each such group, the applicants and other staff of Group C thought that all those vacancies related to their group and also equal to vacancies of Group B available in other groups. This notice having not specified the vacancies available in each of the groups, according to applicants, was not only misleading, but also illegal as it gave scope for manipulation at a later stage and not proper for a fair selection. However, the applicants and other staff of Group C with an impression that 9 posts in their group would be filled up by selection applied for the selection. Applicant No.2 is the senior most in Group C and applicant No.1 holds the third position in the seniority list. The written test was separately held for each group with separate sets of questions. The applicants came out successful in the written test and were called for viva voce test. In the viva voce test questions usually meant for Group A candidates were asked. Ultimately overlooking the seniority, merit and



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experience of the applicants and some Group C staff, inexperienced and junior personnels were promoted under Annexure-2.

On these grounds the applicants have approached this Tribunal with the aforesaid prayer.

3. The Department in their counter challenge the maintainability of this application in the absence of selected candidates under Annexure-2 being impleaded as party-respondents since their valuable rights to be appointed on promotion would be affected in case a decision is taken in favour of the applicants and without hearing them a decision in favour of the applicants would infringe the principles of natural justice. This apart, the Department deny that separate questions were framed for each group. According to them written test was conducted on 14.10.1991 for 81 applicants and a supplementary test was conducted on 24.10.1991 for three absentees. 17 candidates including the applicants were called for viva voce. Among them seven came out successful in viva voce, who were empanelled for promotion to skilled cadre. The applicants could not come out successful in viva voce for which they could not be empanelled. They deny the version of the applicants that staff of Group C can perform the jobs of Group A and B. Since the work is different from one Group to the other, staff of each Group can do work on its own Group, but staff of Group A and B can do the work of Group A, B and C. It has been clearly mentioned under Annexure-1 that selection against 25% departmental quota was meant for 9 vacancies out of which 6 for unreserved, 2 for S.C. and 1 for S.T. Accordingly, seven successful candidates were



selected. It is not as though the selection was only meant for Group C staff, though they were eligible to apply for the same. On these grounds the respondents pray for dismissal of this application.

No rejoinder has been filed by the applicants.

2. During hearing neither the applicants nor their counsel turned up. Hence we have heard Shri D.N.Mishra, learned Addl.Standing Counsel appearing for the respondents. Also perused the records.

Annexure-2, the selection panel for promotion which is sought to be quashed would reveal that seven departmental employees have been selected through the test as against 25% departmental promotion quota. None of them has been impleaded as party-respondent, they being the necessary parties, because in the event of Annexure-2 being quashed, their promotions would necessarily be cancelled. Hence in their absence and without hearing their version no decision can be taken for quashing of Annexure-2. Hence this application in the absence of these seven departmental employees <sup>being impleaded as party-respondents</sup> is not maintainable.

As earlier stated, no rejoinder has been filed. The case of the Department is applications were invited from all the Groups and one written test with some set of question was prepared. The applicants could not fare well in the viva voce and as such were not selected. We see no reason to accept these facts in the absence of any rejoinder.

5 In the result, we hold that the application is without any merit and the same is rejected, but without any order as to costs.

(SOMNATH SOM)  
VICE-CHAIRMAN

B.K.SAHOO

14.12.15  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

