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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 542 OF 1994.
Cuttack, this the 27th day of March, 2000.

N.A. NAIR.

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APPLICANT.

VRS.


UNION OF INDIA & ORS.

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.*


(ASHOK AGARWAL)
CHAIRMAN


(SOMNATH SOM)
VICE-CHAIRMAN *27.3.2000*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 542 OF 1994.

Cuttack, this the 27th day of March, 2000.

C O R A M:

THE HONOURABLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN

AND

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

N.A.NAIR,
Beldar,
Central Public Works Department,
Central Sub Division,
Sambalpur-768 001.

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APPLICANT.

By legal practitioner : Mr.D.P.Dhalasamant, Advocate.

- VERSUS -

1. Union of India represented through
Director General (Works),
Central Public Works Department,
Nirman Bhawan, New Delhi.
2. Chief Engineer (EZ),
Central Public Works Department,
Nizam Palace,
Calcutta-20.
3. Superintending Engineer,
Calcutta Central Circle No.1, CPWD,
Nizam Palace, Calcutta-20.
4. Executive Engineer,
Bhubaneswar Central Division-II,
Central Public Works Department,
Bhubaneswar-3.

.... RESPONDENTS.

By legal practitioner : Mr.A.Routray, Addl. Standing Counsel.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1935, applicant has prayed for a direction to the Respondents for deploying the applicant in Mate cadre from the date from which posts are available alongwith all past benefits;

2. Applicant's case is that he was working as a Mate in N.R.M. Circle, Butwal in Nepal. That construction Project was nearing completion and therefore, Government of India decided to offer alternative appointment to the employees who are working in Nepal and who will become surplus on reduction of work in the Project. Accordingly, applicant was offered a lower post of Beldar and the applicant had to accept the lower post as he had no other choice. He accordingly, joined the lower post of Beldar on 5.1.1984. Applicant has submitted that initially he was given the pay of the post of Beldar but he approached the Patna Bench of the Central Administrative Tribunal in Original Application No. 17 of 1983 for getting the scale of pay of the mate and accordingly, the same was allowed to him in judgment at Annexure-1. Applicant submits that he is now getting the salary of a Mate but working in the post of Beldar. Subsequently, some posts of Mate have become available and he wants that his case may be considered against the post of Mate. On the above grounds, the applicant has come up in this Original Application with the prayers referred to earlier.

Som.

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3. Respondents in their counter have opposed the prayers of applicant. They have stated that the applicant knowingly joined in the lower post of Beldar even though in his parent organisation he was working as a Mate. He is also currently getting the scale of pay of a Mate even though working in a lower post of Beldar. Respondents have stated that there is no post of Mate in the unit in which the applicant is working and therefore, he can not be deployed. As regards creation of new post, Respondents have stated that these posts have been created for offering regular service to the Muster Roll workers and therefore, the applicant can not be considered for such a post of Mate. On the above grounds, the Respondents have opposed the prayers of applicant.

4. We have heard Mr. D.P. Dhalsamant, learned counsel for the applicant and Mr. A. Routray, learned Addl. Standing counsel appearing for the Respondents and have also perused the records.

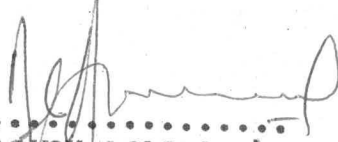
5. From enclosure to Annexure-3 it appears that on 30.9.1992 five posts of Mate were created but admittedly not for the eastern zone where the applicant is working. Ld. counsel for the applicant has drawn our attention to the representation of applicant which has been referred to in Annexure-4 where the applicant has given his preference of working as a Mate in any of the zones where the post of Mate is there. It is further submitted that later on in order dated 4.5.1993 (Annexure-5) seven posts of Mate have been created including one in the Eastern zone. It is stated by Ld. counsel for the applicant that the applicant has represented and has given his willingness to go to


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any zone to work as Mate but this has not been accepted by the Departmental Authorities. It is submitted by Shri Routray learned Addl. Standing Counsel appearing for the Respondents that these posts which have been created and which have been referred to at Annexes-3 & 5, have been created only for the purpose of providing regular job to Muster Roll workers and the applicant can not be considered against those posts. It must be noted that applicant was originally working as a Mate in his parent organisation on a regular basis. Therefore, he has a better right for being considered in the post of Mate in his new organisation where he has been absorbed as Beldar on being declared surplus in his parent organisation. In consideration of this, the contention of the learned Additional Standing Counsel appearing for the Respondents that the case of applicant can not even be considered for the post of a Mate, the post having been kept reserved only for Muster roll workers, can not be accepted. We, therefore, dispose of this Original Application with a direction to the Departmental Authorities that in case the posts of Mate mentioned in Annexure-3 and Annexure-5 are still vacant then for filling up of the posts, they should consider the candidature of the applicant strictly in accordance with Rules and the eligibility of the applicant. As these posts are there in different Zones it would not be possible for the applicant to apply for each zone separately. We therefore, direct that the applicant should make a fresh representation to the Respondent No.1 along with a copy of this order for consideration of his case at the time of filling up of the vacant posts of Mate on regular basis.

J. S. M.

6. In the result, with the observations and directions made above, the original Application is disposed of but in the circumstances without any order as to costs.


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(ASHOK AGARWAL)
CHAIRMAN


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(SOMNATH SOM)
VICE-CHAIRMAN

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KNM/CM.