

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. NOS. 160/95, 166/95 AND 184/95.
Cuttack, this the 11th day of March, 2002.

DANDANIRODHA MISHRA & ORS.

APPLICANTS

- VERSUS -

UNION OF INDIA & 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 Tribunal or not?

MC

Manoranjan Mohanty
11/03/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

M. P. Singh
(M. P. SINGH)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.NOS. 160/95, 166/95 AND 184/95.
Cuttack, this the 11th day of March, 2002.

C O R A M:

THE HONOURABLE MR. M. P. SINGH, MEMBER (ADMINISTRATIVE)
AND
THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL).

...
O.A.NO.160/95.

Shri Pandanirodha Mishra, 51 years,
S/o. Late Pandit Bhubaneswar Mishra,
resident of Khatoin Sahi,
PO: Khatoin Sahi, Dist. Cuttack,
at present working as Addl.
Commissioner, Transport, Cuttack.

... Applicant.

By legal practitioner: M/s. M. R. Panda,
D. K. Pani,
M. K. Nayak,
Mr. M. K. Das,
Advocates.

- Versus -

1. Union of India represented through
Secretary, Ministry of Personnel,
Public Grievances and Pensions,
Dept. of Personnel & Training,
North Block, New Delhi.
2. State of Orissa represented through
Chief Secretary to Government of Orissa,
Bhubaneswar, Dist: Khurda.
3. Union Public Service Commission
represented through its Secretary,
New Delhi.

... Respondents.

By legal practitioner: Mr. K. C. Mohanty, G. A. (State),
Mr. S. B. Jena, for UPSC,
M/s. N. Patra, A. K. Patra,
Advocates.

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O.A.No.166/95.

1. Shri Arunodaya Swain,
S/o.Late Prabhakar Swain,
Deputy Secretary to Govt.,
P.G. & P.A.Department,
Orissa Secretariat,
Bhubaneswar.
2. Sri suryanarayan Panda,
S/o.Jagannath Panda,
Joint Secretary to Govt.,
Health and Family Welfare Deptt.,
Orissa Secretariat,Bhubaneswar.
3. Niranjan Jali,S/o.Late Ajib Jali,
Dy.Secretary to Government,
Industries Department,
Orissa Secretariat,Bhubaneswar.
4. Biswamoy Mishra,S/o.Late Damodar Mishra,
General Manager(P&A),OPGC,Orissa
Secretariat,Bhubaneswar.
5. Premananda Ray,S/o.Srinath Samal,
Joint Secretary to Govt.Panchayatraj,
Orissa Secretariat,Bhubaneswar.

.... APPLICANTS.

By legal practitioner: M/s.G.A.R.Dora,
V.Narasingh,
Advocates.

- VERSUS -

1. Union of India represented through
Secretary, Govt.of India,Dept.of
Personnel, New Delhi.
2. State of Orissa represented through
Chief Secretary to Govt.of Orissa,
Bhubaneswar,Dist.Khurda.
3. Union public Service Commission,
represented through its Secretary,
New Delhi.
4. Sri Uma Kanta Mishra,
Joint Secretary to Govt.,
G.A. Department,Orissa,
Bhubaneswar.

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5. Sri Rabinarayan Pani, Dy. Secretary to Government, G. A. Department, Orissa, Bhubaneswar.
6. Sri Swapaneswar Baya, Dy. Secy. to Govt., Deptt. of School & Mass Education, Orissa, Bhubaneswar.
7. Sri Digamber Mohanty, Project Officer, D. R. D. A., Cuttack.
8. Sri Manoranjan Saran, Secretary, State Election Commission, Sahidnagar, Bhubaneswar.
9. Sri Suresh Chandra Patnaik, Project Officer, D. R. D. A., Keonjhar.
10. Sri Bata Krushna Das, Settlement Officer, Ganjam Major Settlement, Berhampur, Dist. Ganjam.
11. Sri C. B. S. Rao, Collector, Bhadrak.
12. Sri Binay Chandra Patra, Joint Secretary to Government, Fisheries and Animal Resources Dev. Department, Orissa, Bhubaneswar.
13. Sri Duryodhan Nayak, Director, Housing and Joint Secretary to Govt., Urban Dev. Department, Orissa, Bhubaneswar.
14. Sri Prasant Kumar Tripathy, Secretary, Subordinate Staff Selection Commission, Orissa, Cuttack.
15. Sri Narendra Kumar Mishra, Director of Estate-Cum-Joint Secretary, to Government, GA Department, Orissa, Bhubaneswar.
16. Sri D. K. Pujari, Managing Director, Bhaskar Textile Mills, Jharsuguda, Sambalpur Dist.
17. Sri Partha Sarathi Cuha, Joint Secretary to Govt., Revenue & Excise Deptt., Orissa, Bhubaneswar.

18. Sri Prasanta Kumar Chand,
Deputy Secretary to Govt.,
Welfare Department, Orissa,
Bhubaneswar.

19. Sri Alekh Chandra Sahu,
Financial Adviser,
Board of Revenue, Orissa,
Cuttack.

20. Sri Purna Chandra Pal,
Joint Secretary,
Board of Revenue,
Orissa, Cuttack.

21. Sri Srihari Nayak,
Joint Secretary to Government,
Revenue and Excise Department,
Orissa, Bhubaneswar.

.... Respondents.

By legal practitioner: Mr. K. C. Mohanty, G. A. (State)

Mr. S. B. Jena, ASC (Central).

M/s. P. K. Chowdhury,
S. Mohanty,
S. Patnaik,
D. K. Sahoo,
Advocates.
M/s. N. Patra, A. K. Patra,
Advocates.

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O. A. No. 184/95.

Brahmananda Rout, S/o. Late Sukadev Rout,
Private Secretary to Speaker, Orissa
Legislative Assembly, At/PO: Bhubaneswar,
Dist. Khurda.

.... Applicant.

By legal practitioner: M/s. G. A. R. Dora,
V. Narasingha,
Advocates.

- Versus -

1. Union of India represented through
Secretary, Govt. of India, Department
of Personnel, New Delhi.

[Signature]

2. State of Orissa represented through the Chief Secretary, Govt. of Orissa, At/PO: Bhubaneswar, Dist: Khurda.
3. Union Public Service Commission represented through its Secretary, New Delhi.
4. Rabinarayan Pani, Dy. Secretary to Govt., GA Department, Bhubaneswar, Orissa Secretariat, Dist. Khurda.
5. Swapneswar Baya, Dy. Secretary to Govt. Education Department, Orissa Secretariat, Bhubaneswar, Dist. Khurda.
6. Digambar Mohanty, Project Officer, DRDA, Cuttack, Post/Dist. Cuttack.
7. Manoranjan Saran, Secretary, State Election Commission, Sahidnagar, Bhubaneswar.
8. Suresh Chandra Patnaik, Project Officer, DRDA, PO/Dist: Keonjhar, Orissa.

.... Respondents.

By legal practitioner: Mr. K. C. Mohanty,
Govt. Advocate (State).

M/s. P. K. Choudhury, S. Patnaik,
S. Mohanty, B. K. Sahu,
Advocates.

O R D E R

(O R A L)

MR. M. P. SINGH, MEMBER (ADMINISTRATIVE) :-

Since the issues raised in all these three Original Applications and the reliefs claimed by the Applicants are similar, even though we have heard them separately, we proceed to dispose of these Original Applications by passing a common order.

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2. The O.A.No.160/95 is to be treated as a leading case. The brief facts of O.A.No.160/95 are that the Applicant was appointed as a Member of the Orissa Administrative Service (OAS in short) and was allotted 1967 as the year of allotment. He was promoted to the next higher grade of OAS (Class-I Service) and on 19-12-1994 he was given the Supertime scale of the service. In 1994, the Respondents had initiated action to make selection for appointment to the Indian Administrative Service cadre of Orissa in terms of the Scheme of I.A.S. (Appointment by Promotion) Regulation, 1955. According to the Regulation 5(4) of the Indian Administrative Service (Appointment by Promotion) Regulation, 1955, there shall be "over-all" relative assessment of the service records of the eligible Officers of the State Civil Service. However, the Union Govt. & UPSC had instructed the Selection Committee to consider the service records for a very limited period i.e. 5 years. On the basis of these instructions, the Selection Committee made a selection by considering only 5 years of CRS and tentatively sponsored about 18 names. The name of the Applicant did not find place in the select list prepared by the Selection Committee. He submitted a representation on 4-3-1995 to ventilate his grievance and thereafter filed this Original Application seeking for a direction to declare the assessment made by the Selection Committee as illegal and violative of Regulation 3 and 5(4) of IAS (Appointment by Promotion) Regulation, 1955.

3. Respondent No.3, i.e. Union Public Service Commission which convened the meeting of the Selection has stated in his reply that the Selection Committee consisting of four representatives of the State Govt. and one nominee of the Government of India met at Bhubaneswar on 23rd February, 1995 under the Presidentship of the Member, UPSC to prepare a select list of 1994-95 for promotion of State Civil Service Officers to IAS cadre of Orissa and the aforesaid Selection Committee had made the selection strictly in accordance with the provisions of the promotion regulation, 1955. According to Regulation 5(4) of the Promotion Regulation, 1955, the Selection Committee shall classify the eligible Officers as Outstanding, Very Good, Good or Unfit as the case may be on "an overall relative assessment of their service records". The Selection Committee, therefore, examined the overall service records of each eligible Officers with special reference to the latest performance of the Officers during the last five years and finally arrived at a classification assigned to each officer after a detailed mutual deliberation and equitous discussion. However, on the basis of this grading, the name of the Applicant could not be included in the select list due to statutory limit on the size of the select list. According to the Respondent No.3, the Hon'ble Supreme Court in the case of UNION PUBLIC SERVICE COMMISSION v/s. H. L. DEV AND OTHERS (AIR 1983 SC 1069) have held that "how to categorise in the light of the relevant records

and what norms to apply in making the assessment are exclusively the functions of the Selection Committee.

The Tribunal could not make a conjecture as to what the Selection Committee would have done or resort to conjecture as to the norms to be applied for this purpose.

In view of the above submissions, the Original Application has no merit and the same is liable to be dismissed.

The Respondent No.2 has also filed a reply on the same lines.

4. None for the Applicants in these three Original Applications is present. we have heard Mr. Mohanty, Learned Government Advocate appearing for the State of Orissa and Mr. S. B. Jena, Learned Additional Standing Counsel for the Central Government in all these three cases and have perused the records.

5. During the course of argument, Learned Government Advocate, Mr. Mohanty drew our attention to the judgment of this Tribunal dated 12th April, 1999 in OA No. 261/95 where, the similar issues have been considered by the Tribunal. In that case, the Applicant who has been superseded by twenty five officers in the selection committee meeting held in the year 1995 had claimed the same relief. The Tribunal has examined all the aspects and has dismissed the said Original Application upholding the Selection made by the Selection Committee. We respectfully agree with the judgment of the Tribunal dated 12th April, 1999 in O.A.No. 261/95.

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6. Accordingly, we dismiss all these three
original Applications (O.A.Nos. 160/95, 166/95, 184/95)
being devoid of merit on the basis of the aforesaid
Judgment. No costs.

Sd/ M.R. Mohanty
Member (J)

SD/ M.P. Singh
Member (A)

KNM/CM.