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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 267 OF 1995
Cuttack, this the 3rd day of May 2001

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Bade Appa Rao

Applicant

Vrs.

Director General of Security 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.

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(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
3.5.2001

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CORAM:

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

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Bade Appa Rao, aged about 41 years, son of Bade Kamayya, at present working as a Junior Armour, C.S.D., A.R.C., Charbatia, District-Cuttack....Applicant

Advocates for applicant - M/s C.A.Rao
S.K.Purohit
S.K.Behera

Vrs.

1. Director General of Security, Cabinet Secretariat, East Block-V, R.K.Puram, New Delhi-110 066.
2. Director, A.R.C., New Delhi, R.K.Puram, New Delhi-110 066.
3. Deputy Director (Admn.), AIR Wing, R.K.Puram, New Delhi.
4. Deputy Director (Admn.), ARC, Charbatia, Cuttack Office

....

Respondents

Advocate for respondents - Mr.U.B.Mohapatra
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application, the petitioner has prayed for quashing the interview conducted between 24.4.1995 and 28.4.1995 for the post of J.T.O-II in the trade of Armament on the strength of circular at Annexure-1 and for a direction to the authorities to conduct a fresh interview giving a chance to the applicant to face the interview along with other eligible candidates

S.Som.

on the grounds urged by him in the O.A. The respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed. We have heard Shri C.A.Rao, the learned counsel for the petitioner and Shri U.B.Mohapatra, the learned Additional Standing Counsel for the respondents and have perused the pleadings. At our instance, the learned Additional Standing Counsel has produced copies of two letters dated 15.6.1994 and 30.6.1994 and we have also seen the same.

S. S. M.

2. For the purpose of considering this petition, it is not necessary to go into too many facts of this case. The case of the applicant is that after fifteen years of service in Indian Air Force he joined Aviation Research Centre (hereinafter referred to as "ARC"), Charbatia and has been working as Junior Armourer in C.S.D. On 16.5.1994 headquarters of ARC, Charbatia, issued a vacancy circular calling for applications from eligible candidates by 30.6.1994 for the post of JTO-II in different trades in which Armament was also mentioned. The applicant belongs to Armament trade. As the applicant had the necessary eligibility as mentioned in the vacancy circular, he applied for the post. He has stated that his application along with the application of one B.C.Das, was forwarded by C.S.D., ARC, Charbatia, to the Section Officer in the letter dated 15.6.1994 and was subsequently despatched to ARC Headquarters on 30.6.1994. But while B.C.Das was called to the interview and was empanelled, the applicant was not called to the interview. He filed representations at Annexures 2 and 3 but without any result. That is why he has come up in this application with the prayers referred to earlier.

3. Respondents in their counter have stated that the application of the petitioner was sent to the ARC Headquarters in letter dated 30.6.1994 from ARC, Charbatia, which was the last date for receipt of applications. It is stated that in paragraph 4 of the vacancy circular it was clearly mentioned that application received after the last date will not be entertained at any cost. It is stated by the respondents that as the application of the petitioner was received after the last date, i.e., 30.6.1994, his candidature could not be considered and he was not called to the interview. As regards the case of B.C.Das who admittedly was called to the interview and was also panelled, the respondents have stated that B.C.Das had earlier applied in January 1993 and on the basis of the earlier application of Shri B.C.Das, he was called to the interview. It is further stated that besides the applicant, applications of several other persons were received after the last date and therefore, those persons could not be considered. The respondents have stated that they have acted strictly in accordance with rules and on the above grounds they have opposed the prayers of the applicant.

4. On the basis of documents enclosed by the respondents themselves and the documents filed by the learned Additional Standing Counsel at our instance, we find that the application of the petitioner in response to the vacancy circular at Annexure-1 along with the application of Sri B.C.Das, was forwarded by Commandant, C.S.D. to the Section Officer, A.R.C., Charbatia, in his letter dated 15.6.1994. This letter was apparently received by the Section Officer, A.R.C., Charbatia, on

16.6.1994 as is evident from the diary number given on the letter. The application of the petitioner and that of B.C.Das were forwarded to ARC Headquarters in letter dated 30.6.1994 by the Assistant Director (Admn.), A.R.Charbatia. This letter has also been produced by the learned Additional Standing Counsel for the respondents. From this letter it is clear that the Administration Division of A.R.C.,Charbatia, sat over the matter after receipt of the applications of the petitioner and B.C.Das from 16.6.1994 till 30.6.1994 which was the last date for receipt of applications. Obviously, an application sent on 30.6.1994 from Charbatia could not have reached ARC Headquarters on the same day and the applications of the petitioner and Sri B.C.Das were obviously received after the last date. While the applicant was not called to the interview because of this, Shri B.C.Das was, however, called to the interview and was ultimately empanelled for promotion. From Annexures A and A/1 of the counter we find that B.C.Das applied for the post of J.T.O.(Armament) in his application dated 8.1.1993 and this was forwarded to ARC Headquarters in letter dated 23.1.1993 of Assistant Director (Admn.), A.R.C.,Charbatia. The respondents have stated in page 4 of the counter that B.C.Das was called to the interview on the basis of his earlier application of January 1993. Obviously, this application of January 1993 could not be taken to be in response to the vacancy circular dated 16.5.1994 at Annexure-1. In paragraph 4 of the vacancy circular it has been mentioned that the applications of eligible candidates may be submitted latest by 30.6.1994 and the application received after the cut off date will not be entertained at any cost. From this it is clear that only the persons who had applied in

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response to the vacancy circular and that too by the cut off date should have been called to the interview. By calling B.C.Das to the interview when his application submitted in response to the vacancy circular has been received after the last date along with the application of the petitioner and by not calling the petitioner to the interview, obviously the petitioner has been subjected to discriminatory treatment.

5. The next question which arises for consideration is, under the circumstances, to what relief the applicant is entitled. The petitioner has prayed for quashing the interview held for the post of JTO-II (Armament). The respondents have pointed out that applications were called from open market and all applications received within the cut off date were considered. In view of this, it will not be correct to quash the interview held for the post of JTO-II (Armament) as asked for by the applicant. But as the applicant has been discriminated against, while a person similarly situated has been shown favourable treatment, we direct respondent nos. 2 and 3 to get an interview conducted for determining the suitability of the applicant for promotion to the post of JTO-II (Armament) on the same basis as B.C.Das and take follow up action on the basis of result of such interview. This exercise should be completed within a period of 120 (one hundred twenty) days from the date of receipt of copy of this order.

6. In the result, therefore, the Original Application is disposed of in terms of the observation and direction above. No costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

CAT/CB/3-5-2001 /AN/PS

Somnath Son
(SOMNATH SON)
VICE-CHAIRMAN
3.5.2001