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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

O.A.NOS. 431 & 462 OF 1995

Cuttack, this the 20th day of March, 2002

Bijaya Kumar Khuntia

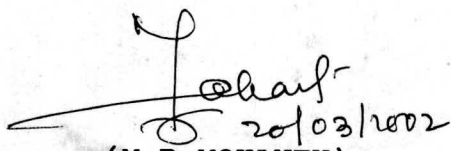
....Applicant


Vrs.

Union of India 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 No. Central Administrative Tribunal or not?


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(M.P. SINGH)
MEMBER (ADMN.)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
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O.A.NOS.431 & 462 OF 1995
Cuttack, this the 20th day of March, 2002

CORAM:

HON'BLE SHRI M.P.SINGH, MEMBER(ADMN.)
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDL.)
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In both the O.As.

Sri Bijaya Kumar Khuntia, aged about 38 years, son of late Nisamani Khuntia, resident of village Laxminarayanpur, P.O-Sidheswarpur, District-Cuttack, at present working as Motor Mechanic Grade I in Motor Transport Section, Carriage Repairing Workshop, Mancheswar

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....Applicant

Advocates for applicant - M/s Balaram Rout
S.R.Rout
P.Srinivas
S.Patnaik
T.P.Paul

Vrs.

1. Union of India, represented through the Secretary to Government, Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager, South Eastern Railway, Garden Reach, Calcutta-43.
3. Chief Works Manager, Carriage Repairing Workshop, At/PO-Mancheswar, District-Khurda.
4. Workshop Personnel Officer/Assistant Personnel Officer (after the post was downgraded), Carriage Repairing Workshop, At/PO-Mancheswar, District-Khurda

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Respondents

Advocate for respondents - Mr.Ashok Mohanty

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O R D E R
(ORAL)

SHRI M.P.SINGH, MEMBER(ADMN.)

Common issues of law and fact have been raised in both these O.As. filed by applicant Bijaya Kumar Khuntia. The reliefs sought in both the O.As. are also identical. We, therefore, proceed to dispose of both the O.As. by passing a common order. O.A.No. 431/95 is treated as leading case.

2. In O.A.No. 431 of 1995, the applicant has claimed the following reliefs:

".....The Hon'ble Court may kindly quash the N.B.portion of the order at Annexure-2 and direct the respondents particularly the Respondent No.3 and 4 to give due placement or include the applicant in the Office Order dated 18.8.1993 vide Annexure-2 and promote him to the post of Master Craftsman with effect from the date when others were promoted by virtue of the Order at Annexure-2. Alternatively if the respondents can justify before the Hon'ble Court that ten years of experience is required for promotion to the post in question, the applicant may be ordered to be promoted as Master Craftsman with effect from 02.02.1995, the period of ten years having been completed on 01.02.1995."

In O.A.No.462 of 1995, the applicant has sought direction to the respondents to fill up the post of Master Craftsman by considering unreserved candidates and has also sought direction for appointment of the applicant as Master Craftsman.



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3. The admitted facts of the case are that the applicant was appointed as Motor Mechanic Grade III in the Carriage Repairing Workshop, Mancheswar, on 2.2.1985. He was promoted to the next higher grade, i.e., Motor Mechanic Grade-II in the pay scale of Rs.1200-1800/- with effect from 1.8.1987. He was thereafter promoted to the rank of Motor Mechanic Grade-I with effect from 1.3.1990 in the pay scale of Rs.1320-2040/-. The next promotion from Motor Mechanic Grade-I is to the post of Master Craftsman in the pay scale of Rs.1400-2300/-. As per the rules, 10 years service in the post of Motor Mechanic Grade I or allied grade in the Skilled Grade I, II and III, inclusive of a period of at least three years service in Skilled Grade-I, is required before a person is considered for promotion to the post of Master Craftsman. The applicant completed the requisite ten years of service on 2.2.1995. Before that, the applicant had appeared in the selection/suitability test for promotion to the post of Master Craftsman, and in order dated 17.8.1993 the applicant was declared suitable for the said post. In the meantime, the Ministry of Railways on 29.7.1993 have issued a circular stating that if the number of posts in a particular cadre is less than four and the said posts cannot be grouped with other posts in the same Group, the posts may be reserved for SC and ST as per roster. Earlier there were two posts in the grade of Master

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Craftsman, and as a result of restructuring of the cadre, on 1.3.1993 one additional post of Master Craftsman was created. Therefore, there were three posts in the grade of Master Craftsman. The two posts of Master Craftsman had already been filled up by appointing two persons belonging to General Category. Therefore, in terms of the instructions issued by the Railway Board on 29.7.1993, the third post was required to be filled up by a candidate belonging to reserved category. The applicant, apprehending that the post may be filled up by a candidate belonging to reserved category, filed these O.As. claiming the aforesaid reliefs.

4. Heard both the learned counsel for the contesting parties. During the course of arguments, the learned counsel for the applicant submitted that as the third post should have been filled up by considering and appointing the applicant to the post of Master Craftsman since he had already undergone the suitability test and qualified in the test, and as the applicant was assured by the respondents that he would be appointed to the third post as soon as he completes the requisite ten years of service, the applicant had a legitimate expectation of being appointed to the post of Master Craftsman, and the respondents are estopped from filling up the vacancy by appointing reserved category candidate. The learned counsel for the applicant also submitted that the post of Master Craftsman being a single vacancy in the year, has to be treated as an unreserved vacancy. He further

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submitted that as per the 40-point roster, the vacancy falls on point No.3, which is earmarked for an unreserved candidate and therefore, the respondents ought to have considered and appointed the applicant against the post newly created in 1993, which was subsequently carried forward to 1994 and 1995, being a single vacancy of that year. He also pointed out that the respondents in paragraph 9 of their counter reply filed in OA No. 462 of 1995 have stated that the post of Master Craftsman is not a promotional post. It is only to confer benefit of higher scale on a person who has completed ten years of service by granting him personal pay. He also submitted that since according to the respondents, the post of Master Craftsman is not a promotional post, the reservation order should not have been applied by them for filling up this post.

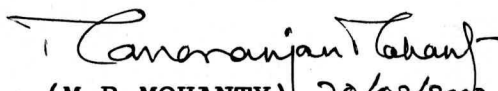
5. On the other hand, the learned counsel for the respondents drew our attention to Annexure-R/2 to the counter reply filed in OA No. 462 of 1995, wherein it is clearly stated that the post of Master Craftsman is a promotional post and is required to be filled up by employees who have put in ten years of service in the lower grade. He also drew our attention to Annexure-4, the Railway Board's letter dated 29.7.1993, in which it has been laid down that in a small cadre of less than 7 posts where grouping is not possible and vacancies worked out are less than 0.5%, the posts may be reserved for SC/ST as per roster.


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6. We have given our careful and anxious thought to the issues raised in the O.As. The admitted fact of the case is that the third post of Master Craftsman was created in 1993 under the restructuring scheme. As per the instructions issued by the Railway Board on 29.7.1993, if the number of posts in a cadre is less than four and grouping is not possible, the posts are required to be filled up by adopting the roster point. Since there are three posts in the cadre of Master Craftsman, they are to be filled up as per the 40-point roster and all the three posts are to be reflected in the 40-point roster maintained for this purpose. As per the 40-point roster, point no.1 is earmarked for an SC candidate, and point nos. 2 and 3 are earmarked for unreserved candidates. Therefore, the appointment of the first person to the grade of Master Craftsman is to be reflected on point no.1. Since the first two persons appointed to the grade of Master Craftsman were General Candidates, point no.1 will be carried forward to point no.2 and subsequently to point no.3, and accordingly, point no.3 will be treated as a reserved point. As per the rules for reservation for SC and ST, a reserved point has to be carried forward for three subsequent recruitment years before it lapses. In this case, the reserved point has been carried forward to two subsequent years and reflected on point no.3, which will be treated as reserved point although it is an unreserved point. Therefore, the

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respondents are justified in filling up the third post of Master Craftsman by appointing a candidate belonging to reserved category, and we do not find any fault with it. In this view of the matter, both the O.As. are without any merit and are accordingly dismissed. The interim orders stand vacated. No costs.


(M.R. MOHANTY) 20/03/2002
MEMBER (JUDICIAL)


(M.P. SINGH)
MEMBER (ADMINISTRATIVE)

CAT/CUTT.B/20.3.2002
AN/PS