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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 491 OF 1995  
Cuttack this the 4th day of September/02

Ch. Surya Rao ... Applicant(s)

- VERSUS -

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

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

*Feb. 04/09/2002*  
(M.R. MOHANTY)  
MEMBER (JUDICIAL)

*V. Srikanth*  
(V. SRIKANTAN)  
MEMBER (ADMINISTRATIVE)

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CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 491 OF 1995  
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CORAM:

THE HON'BLE MR. V. SRIKANTAN, MEMBER (ADMINISTRATIVE)  
AND

THE HON'BLE MR. M. R. MOHANTY, MEMBER (JUDICIAL)

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Ch. Surya Rao, Son of Late Ch. A.G. Rao,  
resident of Qrs. No. L-29/4, Diesel Colony  
Bondamunda & Place of employment at  
Bondamunda Diesel Shed under Senior Divisional  
Mechanical Engineer, Bondamunda,  
District-Sundargarh

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Applicant

By the Advocates

Mr. M. Malekaram

-VERSUS-

1. Union of India represented through G.M.S.K.  
Railways, Garden Reach, West Bengal
2. Senior Divisional Mechanical Engineer, Diesel  
Bondamunda S.E.Rly, Diesel Loco Shed,  
Bondamunda, District-Sundargarh
3. Divisional Railway Manager (D.R.M.)  
S.E.Rlys, Chakradharpur, Bihar
4. Sri A.R.C.S. Rao, S/o. Late A. Satya Rao,  
Diesel Loco Shed, Bondamunda, PS-Bondamunda,  
Dist-Sundargarh, Orissa
5. Sri A. Bhaskar Rao, S/o. Late A. Kondal Rao,  
Diesel Locoshed, Bondamunda, Dist-Sundargarh, Orissa
6. Sri K.V. Rao, S/o. Not known, Diesel Loco Shed, Bondamunda  
PS-Bondamunda, Dist-Sundargarh, Orissa
7. Sri T.D. Rao, S/o. Late T.S. Rao, Diesel Loco Shed,  
Bondamunda, Dist-Sundargarh, Orissa

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Respondents

By the Advocates

Ms. S. L. Pattnaik,  
ASC (Railways)

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O R D E R

MR.V. SRIKANTAN, MEMBER (ADMINISTRATIVE): The applicant, a Fitter Mechanical Wing in Diesel Loco Shed, Bondamunda had appeared at the written examination for the post of Intermediate Apprentice against 25% vacancies of Chargeman B Grade. On being declared pass in the written examination vide Annexure-1 dated 20.4.1995, the applicant was called upon to appear at the viva voce test on 3.5.1995, the results of which were declared on 24.6.1995 vide Annexure-2, wherein his name did not figure. Aggrieved by his non selection in the viva voce test, the applicant has filed this Original Application <sup>praying</sup> ~~for quashing~~ Annexure-2, containing the list of successful candidates and for further direction to Respondents to declare the applicant to have been selected in the test.

2. It is the contention of the applicant that he stood 1st in the written examination and had also done very well in the viva voce, and that Annexure-2 is arbitrary and violative of the principles of natural justice as it is not in accordance with guidelines prescribed <sup>by</sup> the Railways to take into consideration professional ability, personality, address, leadership, academic qualification, record of service and seniority, which the Respondents in his case have not taken into consideration and that had these been considered, the applicant would have been selected for the post in question.

3. The Respondents have filed their reply by denying that the applicant had not secured the highest marks in the written examination and that the list of successful candidates in the written test vide Annexure-1 dated 20.4.95

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is not as per merit nor was it arranged as per seniority and that the names of the candidates were arranged as per their respective token number. It is stated by the Respondents that in order to be eligible for viva voce test, an unreserved community candidate has to secure 60% marks in the written examination and not less than 60% in the professional ability (both written and viva voce) and again not less than 60% in aggregate to be eligible for empanelment; and that the applicant though secured qualifying marks in the written examination, having failed to secure the qualifying marks in the professional ability and also in aggregate, he could not be empanelled.

4. Heard Mr.M.Maleshwaram, the learned counsel for the applicant and Ms.S.L.Patnaik, learned Addl.Standing Counsel appearing on behalf of the Respondents(Railways).

5. To come to a conclusion as to whether the applicant could not be empanelled, we had directed the Respondents to produce the relevant selection file, which was produced before us during hearing. It is seen that the candidates who have been declared successful have secured more than 60% marks in aggregate whereas the applicant has secured only 53.3% in aggregate. We also found that the applicant is not the senior most and is only the 2nd senior most. This list was also shown to the counsel for the applicant. The counsel for the applicant argued that the marks secured by the applicant under the columns : record of service, seniority, leadership, academic qualification, ability etc. and in the viva voce were not awarded correctly and desired that we should call for the CRs of the applicant and examine the same. These marks have been awarded to the candidates by a duly

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constituted Selection Committee, who were the technical personnels, comprising of DME(D)BNDM, DME(P)/CKP and DPO/CKP and they are the capable persons to adjudge the suitability as well as to record CRs. Under this circumstances, it would not be proper for this Tribunal to sit as an Appellate Authority and review the marks awarded by the Selection Board. Further, this Tribunal is precluded from sitting as an Appellate Authority and we cannot substitute our judgment for judgment made by the Selection Board.

For the aforesaid reasons, we do not find any merit in this application, which is accordingly dismissed. Nocosts.

*Y. Mohanty*  
04.09.2002  
(M.R. MOHANTY)  
MEMBER (JUDICIAL)

*V. Srikanth*  
(V. SRIKANTAN)  
MEMBER (ADMINISTRATIVE)

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