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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

9

ORIGINAL APPLICATION NO. 58 OF 1995

Cuttack, this the 23rd day of July, 1999

Amulya Kumar Pattanayak ..... 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 Central Administrative Tribunal or not? NO.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
23.7.99

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CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 58 OF 1995

Cuttack, this the 23rd day of July, 1999

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....

Amulya Kumar Pattanayak, aged about 29 years, son of  
Pitambar Pattanayak, At-Khaparakhai, PO-Ghasipur,  
District-Keonjhar, at present working as Helper at  
L.P.T.V.Relay Centre, Anandapur, PO/PS-Anandapur,  
District-Keonjhar ..... Applicant

Advocates for applicant - M/s D.Mohanty  
K.Lenka  
B.K.Biswal  
K.M.Samal

Vrs.

- J. Sam.*
1. Union of India, represented through the Director General, Doordarshan Kendra, Mandi House, New Delhi-110 001.
  2. Chief Engineer, All India Radio and Televisions, East Zone, Calcutta, Akashbani Bhawan (fourth Floor), Calcutta.
  3. Superintending Engineer, Doordarshan Kendra, Bhubaneswar, At/PO-Bhubaneswar, District-Khurda.
  4. Pradip Kumar Mohapatra, son of Bhaskar Mohapatra.
  5. Birati Sahu, daughter of Purna Chandra Sahu  
Both respondents 4 and 5 are working as Group "C"  
Technical Doordarshan Kendra, Bhubaneswar,  
PO/PS-Bhubaneswar, District-Khurda... Respondents  
Advocate for respondents - Mr.A.K.Bose  
Sr.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of  
Administrative Tribunals Act, 1985, the petitioner has

prayed for a declaration that non-issuing of appointment letter in his favour as per the eligibility criteria in terms of Annexure-7 for the post of Group-C Technical is bad and illegal. The second prayer is for a declaration that the applicant is entitled for appointment to the post of Group-C Technical. The third prayer is for a direction to the respondents to issue appointment order in favour of the applicant against the existing vacant post of Group-C Technical with all consequential and service benefits. The last prayer is for quashing appointment orders issued in favour of Pradip Kumar Mohapatra and Birati Sahu, respondent nos. 4 and 5.

2. The applicant's case is that he has been issued a Wireman Certificate in Grade C by Secretary, Electrical Licensing Board, Orissa, on 5.7.1965. Subsequently, the applicant has passed Wireman "B" Certificate in Bhubaneswar Centre on Domestic and Industrial Installations Upto 650 Volts. These two certificates are at Annexure-1 series. He has also undergone training in Fitter Trade in Small Industries Development Organisation for a period of six months from 1.3.1988 to 31.8.1988. The certificate in this regard is at Annexure-2. The applicant has been engaged as Electrician in different Engineering Workshops and Factories from time to time and has worked upto the satisfaction of the authorities. He has been issued with an experience certificate by Managing Director, Orissa Aluminium Products at Cuttack and another certificate for his work as Fitter in National Engineering Workshop has also been issued. These two certificates are at Annexures 3 and 4. The applicant has passed Kovida under Rashtravasa Prachara Samiti and has also passed Madhyama Certificate Examination in May 1993 which is equivalent to High School Certificate Examination. In 1990 Doordarshan Kendra called

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12

for names from intending candidates through local Employment Exchange for appointment of persons in the post of Helper. The applicant's name was forwarded by Anandapur Employment Exchange and on being selected, he was appointed as Helper in appointment order dated 27.4.1992 and worked as Helper in L.P.T.V. Relay Centre at Anandapur in the pay scale of Rs.800-1150/-. This appointment order is at Annexure-6. The applicant has stated that in this appointment order dated 27.4.1992 at Annexure-6 it has been mentioned that he will be on probation for two years from the date of appointment. But taking into consideration the qualification and experience, that period has been reduced to six months. Though the applicant has been working for more than two years continuously, he has not yet been confirmed. It is further stated that Superintending Engineer, Doordarshan Kendra, Bhubaneswar, issued an open advertisement in the SAMAJ on 15.12.1993 inviting applications for the post of Group-C Technician. The applicant being eligible sent an application directly by post which was received on 24.12.1993. Another application was also sent through proper channel. He also enclosed to his application all certificates and also Employment Registration Card. The true copy of his application is at Annexure-9. The applicant was hopeful that he would be called to the interview, but he has not yet been issued with any call letter. The applicant has further stated that the interview for the post has already been held in 1994 and even though his application has been recommended he was not called. But some of the other applicants have been called and selected. The applicant has stated that respondent nos. 4 and 5 have been illegally appointed. He

S. Som

has also stated that respondent no.5 is the daughter of an employee of the Department and even though she has not passed I.T.I. and does not have one year practical experience, she has been appointed and she has joined with effect from 9.11.1994. In the context of the above facts, the applicant has come up in this petition with the prayers referred to earlier.

3. Departmental respondents in their counter have admitted that the applicant was selected and appointed as Helper in Anandapur L.P.T.V.Relay Centre and he applied for the post of Technician in Group-C category which was advertised vide Advertisement at Annexure-7 to the O.A. The departmental respondents have stated that the applicant was not called for attending the interview as he did not possess the required qualification as per Recruitment Rules. This qualification was also published in the Advertisement at Annexure-7. According to the respondents, minimum qualification for consideration for appointment to the post of Technician Group-C is that the candidate should possess a two-year trade certificate from ITI or a Certificate of competency or Diploma from a recognised institute for Wireman Mechanisim or Electrician or Fitter Mechanic subject to the condition that the candidate possesses suitable Electrical Licence with at least two years experience in a reputed workshop in one of the following trades: (1) Lathe work, (2) Carpentry, (3) Electric Wiring Soldering, (4) Internal Combustion Engine, and (5) Fitting and Plumbing. The departmental respondents have stated that though the applicant possesses the Wireman Certificate for a period of period of three years from 30.1.1993 to 29.1.1996, he did not possess a certificate of competency or diploma from a

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12

recognised institute which should be for a period of eighteen months. The certificate possessed by the applicant from Small Scale Industrial Development Corporation is only for a period of six months. The departmental respondents have stated that this certificate was also not enclosed to his application and hence he was not qualified for the post advertised. They have also stated that the applicant did not mention in his application about his possessing the certificate of competency or diploma in the specific trade. He has enclosed the application at Annexure-9 series and this will be clear from his application itself. The departmental respondents have stated that as the applicant did not possess the required qualification and did not also indicate about his certificate of competency, he was not called to the interview. They have also denied the averment of the applicant that respondent nos.4 & 5 have been selected without having the requisite qualification for the post on account of their being son and daughter of staff member. They have stated that as per documents produced, originals of which were also verified, respondent nos.4 & 5 were found eligible by possessing the requisite qualification for the post and accordingly he was called for the interview and select committee had selected him. On the above grounds, the departmental respondents have opposed the prayers of the applicant.

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4. In spite of notice, respondent nos. 4 and 5 have neither appeared nor filed counter.

5. On 3.66.1999 when the matter was called, the learned counsels for the petitioner were not present nor was any request made on their behalf seeking adjournment. As in this case pleadings had been completed long ago, the matter was not allowed to be dragged on indefinitely. We had therefore heard Shri A.K.Bose, the

learned Senior Standing Counsel appearing for the departmental respondents and perused the records. Learned counsel for the petitioner was permitted to file written note of submissions by 5.7.1999 for which purpose the matter was again brought up on 5.7.1999 but no written submission was filed.

6. As per the Advertisement which is at Annexure-7 for the post of Group-C Technical the required qualification was a certificate of competency or diploma from a recognised institution for wireman mechanic, or electrician or fitter mechanic subject to the condition that the candidate possesses suitable electrical licence with at least two years experience in a reputable workshop in any of the five trades indicated in the Advertisement and noted by us earlier. The departmental respondents have admitted that the applicant possessed electrical licence in one of the trades notified for more than two years. They have stated that the applicant's certificate of competency from Small Scale Industrial Development Corporation, which is a mistake for Small Industries Service Institute, Ministry of Industries, Government of India as the Certificate itself at Annexure-2 would indicate, is only for a period of six months whereas the certificate of competency from a recognised institution should be for a period of eighteen months. This was the ground on which the departmental respondents held that the applicant was not qualified. We have gone through the Advertisement. In the Advertisement there is no mention that the certificate of competency should be for a period of eighteen months. The departmental respondents have also not stated the basis on which they have made the averment that the certificate of competency should be for a period of 18 months. The departmental respondents have not denied

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14

that the applicant has the certificate of competency which is at Annexure-2, but they have stated that this certificate is not enough because this is for a period of six months whereas the certificate of competency, according to them, should be for eighteen months. We have pointed out that the departmental respondents have not indicated the basis on which they have held that the certificate of competency should be for a period of eighteen months. If a Government of India institution under the Ministry of Industries is giving a certificate after a training of six months, that should normally be taken as adequate unless there is a special provision in the Recruitment Rules or elsewhere requiring training for eighteen months which in any case has not been brought on record by the departmental respondents. In view of this, this contention of the respondents that the applicant did not have the certificate of competency is held to be without any merit and is rejected.

7. But the applicant's case must fail on another ground. The departmental respondents have pointed out that the applicant did not mention in his application that he has the certificate of competency nor did he enclose the certificate. The Advertisement at Annexure-7 did not require that the copies of the certificates should be enclosed. But the applicant has necessarily to mention that he has the certificate of competency. The applicant has enclosed the copy of his application made to the departmental respondents at Annexure-9. From this it is clear that he has not mentioned in his application that he has the certificate of competency. Under serial no. 16 he has given the list of documents enclosed. Amongst the six documents enclosed, the certificate of competency is also not there. In view of this, it is clear that the

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17

applicant had neither mentioned that he has the certificate of competency nor had enclosed this along with his application. A candidate applying for a post in response to an advertisement has to clearly specify that he has qualification for the post. As the applicant has not done so in this case with regard to the certificate of competency, the departmental respondents were right in not calling him to the interview.

8. In view of the above, we hold that the prayers of the applicant for a declaration that non-issue of the appointment order in favour of the applicant is illegal and that the respondents should be directed to issue appointment order to the applicant are without any merit and are rejected. His other prayer<sup>is</sup> for a declaration that the applicant is entitled for appointment against the post of Category Group-C Technical. As in the instant case, for reasons indicated above, we have held that the departmental respondents were right in not calling the applicant to the interview, it is not necessary for us nor is it competent for the Tribunal to give a declaration ex cathedra that the applicant has the requisite qualification for the above category of post. If similar posts are again advertised and the petitioner applies for the same it is for the appointing authority to take a view in the matter.

9. In the result, we hold that the application is without any merit and the same is rejected but without any order as to costs.

(G. NARASIMHAM)

MEMBER (JUDICIAL)

(SOMNATH SOM)

VICE-CHAIRMAN

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