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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 608 OF 1995

Cuttack, this the 31st day of October, 2000

Sashi Bhushan Dala Behera

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)
31/10/2000
VICE-CHAIRMAN

6
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CORAM:

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

.....
Sashi Bhusan Dala Behera, aged about 54 years, son of late Laxman Dala Behera, vill/PO-Mandara, P.S-Kodala, Dist.Ganjam, presently working as Electrical Wireman, Office of the Telecom Electrical Sub-Division, Telephone Bhavan, Berhampur, District-Ganjam

..... Applicant

Advocate for applicant - Mr.A.K.Mishra

Vrs.

1. Union of India, represented through the Secretary, Communication, At-Sanchar Bhavan, New Delhi.
2. Chief General Manager, Telecom, At/PO-Telecom Circle Office, Bhubaneswar, Dist.Khurda.
3. Superintending Engineer (Telecom), Telecom Electrical Circle, Calcutta, P-36, Chittaranjan Avenue, Jogajog Bhawan, 2nd Floor, Calcutta-700 012.
4. Executive Engineer, Telecom, Telecom Electrical Division, 4th Floor, Telecom Administrative Building, Saheed Nagar, Bhubaneswar, District-Khurda.

..... Respondents

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

SOMNATH SOM, VICE-CHAIRMAN ORDER

In this application, the petitioner has prayed for a directin to the respondents to promote the applicant to the post of Electrician from the date his juniors have been promoted along with all financial benefits.

2. By way of interim relief it was prayed that one out of four posts of Electrician in the office of Executive Engineer, Telecom, Telecom Electrical Division, Bhubaneswar, may be kept vacant till the disposal of this O.A. In order dated 29.9.1995 by way of interim measure a direction was issued that the last candidate promoted to the post of

Electrician on the basis of interview held between 25th and 29th December 1995 should be informed that his selection is subject to the result of this case.

3. The applicant's case is that he has Electrical Trade Certificate and was originally appointed as Khalasi (Electrical) under C.P.W.D. and posted at Calcutta on 20.5.1963. He worked under C.P.W.D. till 1964 when he was appointed as Khalasi (Electrical) in P & T Department. He was promoted as Assistant Wireman (Electrical) and worked under Electrical Circle, Calcutta, till he was promoted to the post of Wireman on 1.10.1977. After getting this promotion he was posted to Orissa. The applicant has stated that his work has always been highly appreciated by his superior officers as is evident from the certificates enclosed at Annexures 1 and 2. The applicant has also obtained a certificate from Industrial Engineers of India, Calcutta (Annexure-3) to show that he is capable and qualified to work in any electrician concern. He got the certificate with reference to his work under that organisation upto 20.4.1963 as an apprentice before he joined C.P.W.D. The applicant has further stated that according to the seniority list at Annexure-4 he is the seniormost Wireman in the Telecom Electrical Division in Orissa and his name has been shown in the seniority list against serial no.1. But instead of promoting the applicant, the departmental authorities are going to promote his juniors to the post of Electrician. The applicant has stated that he is technically qualified person and has been working in the Department from 1963 and has been promoted to the post of Wireman in 1977. According to the departmental rules of 1987 promotion is to be given to departmental candidates who possess five years experience in erection, running and maintenance of different

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8

types of both H.T. and L.T. Electrical installation including U.G.Cable systems. The applicant has stated that he has this qualification. But even then, he is not being considered for promotion to the post of Electrician. It is stated that there are four posts of Electrician lying vacant, but the departmental authorities are going to select candidates who are junior to the applicant. The applicant ~~has~~ ^{J.J.M} filed many representations but without any result. That is why he has come up in this petition with the prayers referred to earlier.

4. The respondents in their counter have stated that according to the Recruitment Rules, the minimum qualification for the post of Electrician is that one must be a Wireman who has passed Matriculation and must possess ITI Diploma in Electrician Trade, Electrical Supervisory Certificate of Competency and five years of experience in erection, running and maintenance of different types of both H.T. and L.T. electrical installations including U.G.Cable System. The respondents have stated that from the service record it is found that the applicant has read only upto Class III. The respondents have also enclosed the Recruitment Rules of 1987. They have further stated that Electrician post is a supervisory post and the officer who is promoted to that post has to make correspondence individually with higher officers. As the applicant did not have the educational qualification for the post, he has not been found fit by the DPC for recommending him for promotion to the post of Electrician. They have further stated that he also does not possess ITI Diploma in Electrician Trade and Electrical Supervisory Certificate. On the above grounds, the respondents have opposed the prayer of the applicant.

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5. The petitioner in his rejoinder has pointed out that admittedly he is the seniormost Wireman and there is provision in the Recruitment Rules for relaxation and the departmental authorities should have given him relaxation in consideration of his satisfactory service overdecades. He has also pointed out that all the qualifications required under the 1987 Rules have been done away with for promotees in 1998 Rules which have come into force with effect from 30.10.1998 and have been enclosed at Annexure-8. On the above grounds, the applicant has reiterated his prayer in the rejoinder.

6. We have heard Shri Akhaya Kumar Mishra, the learned counsel for the petitioner and Shri U.B.Mohapatra, the learned Additional Standing Counsel for the respondents and have also perused the records.

7. Law is well settled that a post can be filled up only in accordance with the Recruitment Rules. On a reference to the 1987 Recruitment Rules enclosed by the applicant as also the respondents, it is seen that the post of Electrician is to be filled up 25% by direct recruitment and 75% by promotion from amongst the Wiremen, Armature Winder and Lineman with at least five years of regular service. For the promotional quota it is laid down that promotion is to be made by way of non-selection. In other words, 75% promotion quota has to be filled up by seniority subject to elimination of unfit. As regards qualifications, it is laid down in Column 9 of the Schedule to the Recruitment Rules that for promotees the age limit will not apply but the other requirements indicated in column 8 for direct recruits will apply. Column 8 provides for the following four qualifications:

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(i) Pass in Matriculation,

(ii) ITI Diploma in Electrician grade;

(iii) Electrical Supervisory Certificate of Competency; and

(iv) Five years experience in erection and running maintenance of different types of both HT and LT electrical installation including UG Cable systems.

The respondents have stated that out of the four qualifications, the applicant does not have three qualifications which are (i) pass in Matriculation, (ii) ITI Diploma, and (iii) Electrical Supervisory Certificate of Competency. As the applicant does not have the required qualifications under the recruitment rules of 1987, it cannot be said that the DPC was wrong in not recommending his case for promotion. In view of this, the prayer of the applicant for a direction to the respondents to promote the applicant to the post of Electrician from the date his juniors are promoted must be held to be without any merit.

8. The other aspect of the matter is that from 1998 the new Recruitment Rules have come into force. The applicant has enclosed a copy of the Recruitment Rules of 1998 along with his rejoinder. From the Recruitment Rules of 1998 it appears that requirements of pass in Matriculation and ITI Diploma have been done away with and only Electrical Supervisory Certificate of Competency as prescribed in the Recruitment Rules of 1987 in column 8 of the schedule has been laid down. It thus appears that in accordance with the Recruitment Rules of 1998 the applicant ^{may be} ~~/xx~~ entitled to be considered for the post of Electrician. The Recruitment Rules also specifically provide in Rule 5 about power to relax. In consideration of the above and in consideration of long three

decades of service of the applicant and the fact that the applicant would be retiring sometime in 2001, we direct that in the next available vacancy of Electrician the case of the applicant should be considered if necessary by relaxing the Recruitment Rules.

9. With the above observation and direction, the Original Application is disposed of but without any order as to costs. The interim order passed on 29.9.1995 stands vacated.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som.
(SOMNATH SOM)
31.10.2010
VICE-CHAIRMAN

October 31, 2000/AN/PS