

6  
6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A.NC. 209 OF 1996  
Cuttack, this the 9th day of October, 2002.

Dee Charan Dhruvey. .... Applicant.

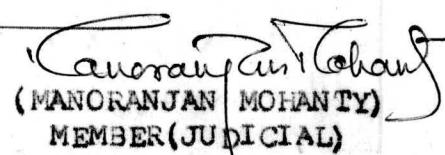
Vrs.

Union of India & Ors. .... Respondents.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not?
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

  
(B.N. SOM)  
VICE-CHAIRMAN

  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)

1  
✓  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 209 OF 1996  
Cuttack, this the 9th day of October, 2002

CORAM:

THE HONOURABLE MR. B.N. SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE MR. M.R. MOHANTY, MEMBER (JUDICIAL).

..

Dee Charan Dhruvey, aged about 47 years, S/o. Shukhav Ram,  
At/Pe: Bhatapura, Dist: Raipur, Madhya Pradesh, now working  
as Daftry, in the Office of Senior Superintending  
Archeologist, Archeological Survey of India, Bhubaneswar  
Circle, Old Town, Bhubaneswar, District- Khurda.

... APPLICANT.

By legal practitioner: M/s. Bibekananda Nayak, A.K. Dora,  
B.B. Mohapatra, Advocates.

: Versus :

1. Union of India represented through the Secretary, Ministry of Human Resource and Development, Shastri Bhawan, New Delhi.
2. Director General, Archeological Survey of India, Janapath, New Delhi-II.
3. Superintending Archeologist, Archeological Survey of India, Bhubaneswar Circle, Old Town, Bhubaneswar, District-Khurda.
4. Damodar Saheb, now working as Monument Attendant, Office of the Archeological Survey of India, Bhubaneswar Circle, Old Town, Bhubaneswar, District-Khurda.
5. Ramial Dhruvey, now working as Monument Attendant, under Conservation Assistant, At/Pe: Malahar, via. Mastury, Dist. Bilaspur (MP).

... RESPONDENTS.

By legal practitioner: Mr. B. Dash,  
Additional Standing Counsel (Central). ✓

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :

Applicant, Shri Deb Charan Dhruvey was not selected for promotion to the post of Foreman (works) and Respondents 4 and 5 were selected and promoted to the post of Foreman (works) under Annexure-A/7 dated 01-03-1996. In the said premises, being aggrieved, the Applicant has filed this O.A. U/s.19 of the Administrative Tribunals Act, 1985 with the prayers for a direction to the Respondents to grant him promotion as Foreman (after reconsidering the selection) and to quash the selection and appointment of the Respondents 4 and 5 granted under Annexure-A/7.

2. The case of the Applicant is that he is working under the Respondents as Daftry, which is a Gr. 'D' post. For filling-up of the post of Foreman (W), a Circular was issued by the Respondents under Annexure-A/4 dated 24.11. 1994 stating therein that "two posts of Foreman (W) is to be filled up by promotion amongst eligible Gr. D employees on seniority-cum-fitness basis. The application with relevant certificates and testimonials of the willing applicants fulfilling the required qualification as mentioned below (ST/GR) may be sent to this office by 12.12.1994". It is the case of the Applicant that though he is the senior-most Gr. D employee fulfilling all the criteria as per the rules (and since he has applied for the post under Annexure-A/5 dated 12.12.1994 i.e. within the stipulated period) he should have been promoted to the post, *if*

in question, instead of Respondents 4 and 5. It is the further case of the Applicant that there are no departmental proceedings etc. pending against him and, as such not granting him promotion is highly illegal, arbitrary and hit by Articles 14 and 16 of the Constitution of India.

3. In the counter, filed by the Respondents, it has been stated that the Applicant is not entitled to be considered for the post of Foreman (W) as Daftry is not a feeder cadre for the post of Foreman (W) and that it was erroneously pointed out (in the circular under Annexure-A/4) that the vacancy of Foreman (W) will be filled up by way of promotion from eligible Gr.D employees and that it ought to have been stated therein that such vacancy/post was required to be filled up from eligible senior Monument Attendants or Monument Attendants, as per the Recruitment Rules available at Annexure-R/1. It has also been clarified by the Respondents, in their counter, that the duty of Monument Attendants are to work in the Monuments including the maintenance and upkeep of monuments, whereas the duty of "Office attendants" and "Daftry" are related to mostly office work and, therefore, they are not at all coming within the zone of consideration for promotion to the post of Foreman (W) as per the Recruitment Rules.

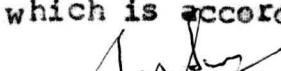
4. We have heard Mr. Bibekananda Nayak, Learned Counsel appearing for the Applicant and Mr. A. K. Bose, learned Senior Standing Counsel of Union of India, appearing for the Respondents and perused the records. *✓*

10 (10)

5. The Recruitment Rules (known as "Archaeological Survey of India Gr.C non-gazetted posts Recruitment (Amendment) Rules, 1984) prescribing the mode of filling up of the post of Foreman (W) envisage that 50% of the posts of Foreman (W) are to be filled up by direct recruitment and rest 50% by promotion from among the eligible Gr.D personnel. In Col.12 of the said rule it has been provided that Senior Monument Attendant with four years regular service in the grade or six years combined regular service in the grade of Senior monument Attendant and Monument Attendant (failing which Monument Attendant with 6 years regular service in the grade) are eligible to be considered.

6. In the above said premises, since the Applicant is not coming at all within the category of personnel to be considered for the post of Foreman (W), as per the Rules, he has no locus standi even to challenge the selection/promotion of the selected/appointed persons.

7. We, therefore, find no merit in this Original Application, which is accordingly dismissed. No costs.

  
(B.N. Saha)  
VICE-CHAIRMAN

  
09.10.2002  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)