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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application 235 of 1996

Cuttack this the 25th day of March, 1996

Arun Kumar Panda ... Applicant (s)

Versus

Union of India & Others Respondent (s)

(FOR INSTRUCTIONS)

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

N. SAHU
(N. SAHU)

MEMBER (ADMINISTRATIVE)

Y
V
CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 235 of 1996

Cuttack this the 25th day of March, 1996

C O R A M:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

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Aruna Kumar Panda, aged about 29 years, Son of Late Nanda Kishore Panda, Resident of Village/PO: Odisso Andeiguda, P.S. Dharmasala District: Jajpur, at present working as Counter/Coupon Clerk, Bhavishyanidhi Departmental Canteen, Office of the Regional Provident Fund Commissioner, Orissa, Unit-9, Janpath, Bhubaneswar-7, Dist: Khurda

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Applicant

By the Advocate:

M/s. K.C. Kanungo
B.D. Roul
S. Behera
P.K. Pattnaik

Versus

1. Central Board of Trustees, represented through Central Provident Fund Commissioner, 2nd and 3rd Floor, Business Park No.25, Sivaji Marg New Delhi-15
2. Regional Provident Fund Commissioner, Orissa, Bhavishyanidhi Bhawan, Janpath, Unit-9, Bhubaneswar-7. Dist: Khurda

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Respondents

By the Advocate:

Mr. S.C. Samantray,
Addl. Standing Counsel
(Central)

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S S

O R D E R

MR. N. SAHU, MEMBER (ADMN) The applicant is a Cupon Counter Clerk in Bhabishyanidhi Departmental Canteen under the Administrative Control of Regional Provident Fund Commissioner, Bhubaneswar (Res.2) Respondent 2 has requisitioned names from Employment Exchange and allowed eligible departmental candidates to appear in the test for recruitment to vacant posts of IDCs. The date for holding the written-test for this recruitment is fixed to be 31.3.1996. The claim of the applicant is that he is a departmental candidate and possesses all the eligible criteria. He has been allowed to appear such a test in the year 1990-91 vide Annexure-2 to the application. There is no change in the rules of recruitment. He claims that the respondents should have allowed him along with other departmental candidates to appear in the written-test. He further states that similarly placed employees of the canteen located at S.R.O., ^{been} Rourkela have allowed to appear in the said test. Specific instances are quoted. The learned counsel for the applicant has brought to my notice the orders dated 27.10.1995 in Misc. Application 693/95 arising out of the Original Application 82 of 1995. It is held in that Misc. Application that the applicants shall be deemed to have been in service as though the impugned orders of termination never existed and shall continue to draw salary as before.

2. In the counter-affidavit, it is stated that

the applicant is not continuing in his post since his services have been terminated. But the termination order has been kept under suspension by the order of this Court. The canteen itself is closed since long. Respondents continue to pay 70 per cent of the wages to the applicants in obedience to the orders of this Court. It is stated that the applicant is no more a departmental candidate and the matter of termination is subjudice. It is also stated that the applicant has no locus standi to appear in the test.

3. I have carefully considered the submissions of the counsel for the respondents. It is arbitrary and unfair to deprive the applicant from appearing in the test. This violates the equality mandate of Equal Opportunities ~~ment~~ under Articles 14 and 16 of the Constitution. Repeated orders of this Court are to treat these canteen employees as employees and ~~they~~ continue to be the employees till the case is decided.

I direct that the respondents shall forthwith allow the applicant to appear in the written test. The result of the petitioner, shall however, be kept in a sealed cover. If the applicant succeeds along with others his case shall be processed for consideration for appointment. If he fails it is another matter. At any rate, it will be appropriate to keep the result of the petitioner in a sealed cover ~~till~~

till Original Application 82/95 is disposed of.

The application is disposed of in the above manner.

No costs.

Hand over copies of the orders to the
counsel for both sides forthwith.

Kanash Mohanty
(N. SAHU)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//