

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 606 OF 1996.

Cuttack, this the 14th day of July, 2000.

JITENDRA MALLIK.

...

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  
14.7.2000

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 606 OF 1996.  
Cuttack, this the 14th day of July, 2000.

CORAM:

THE HONOURABLE MR. SOMNAIH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).

•••

JI TENDRA MALLIK,  
Aged about 32 years,  
S/o. Ramera Mallik,  
Working as Office Peon in the  
Office of Regional Leprosy Training,  
and Research Institute, Aska.

: Applicant.

By legal practitioner: M/s. Ganeswar Rath, S.N Mishra,  
A.K. Panda, S. Mohanty, Advocates.

VTS.

1. Union of India represented through its  
Secretary, Ministry of Health and  
Family Welfare, New Delhi.
2. Director,  
Regional Leprosy Training  
and Research Institute,  
Aska, At/PO: Aska,  
Dist: Ganjam.
3. Regional Director,  
Staff Selection Commission,  
Esplanade Road, (west), Calcutta.

: Respondents.

By legal practitioner: Mr. A. Rautray, Additional Standing  
Counsel (Central).

••••

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant who is a ST Gr.D employee, working as Office Peon in the Office of the Regional Leprosy Training and Research Institute, Aska has prayed for a direction to the Respondents not to give appointment to the Gr.C post of LDC to any direct recruit and to promote the applicant to the Gr.C post. Respondents have filed counter opposing the prayer of applicant.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. Admittedly, the petitioner joined as Gr.D employee in the institute referred to earlier on 21.9.1983. His grievance is that according to rules 10% of the total Gr.C posts are to be reserved to be filled up by promotion from amongst the eligible Gr.D employees but this has not been done by the Respondents.

3. On perusal of the pleadings we find that the contention of the applicant that 10% of the total number of Gr.C posts are to be filled up by way of promotion from amongst the eligible employees is not correct. In accordance with the Departmental instructions, which are at Annexure-R/1, 10% of the total number of posts of LDCs are to be filled up by promotion from amongst the Gr.D employees. Departmental Respondents have pointed out in their counter that in this Institute altogether there are four posts of LDC of which one is filled up by one ST candidate, one is filled up by SC candidate and one has been filled up by a general candidate sponsored by the Service Commission. At present there is only one vacancy in the cadre of

2/Jan

:3:

LDC, Para-5 of the Departmental instructions at Annexure-R/5 lays down the procedure for determining the reservation and it is laid down that for the purpose of determining reservation the anticipated vacancies in a calendar year should be worked out and 10% of those vacancies should be reserved for Class-IV(Gr.D) employees. In other words out of the vacancies which arise in a calendar year, reservation is to be made. As there is only one vacancy in the post, by 10% of that vacancy no quota will fall to be filled up by promotion from amongst the Gr.D employees. Moreover filling up of the post of 10% quota amongst the vacancy of LDC by way of promotion from eligible Gr.D employees is not automatic. For this, there has to be a written test and after the process of selection merit list has to be drawn up and promotion has to be given in accordance with the merit list. In view of this prayer of the applicant that he should be appointed against the vacant post of LDC straightaway is held to be without any merit and is rejected. Moreover, in view of our above discussions that single vacancy can not be filled up by way of promotion of eligible Gr.D employees by way of 10% quota, the action of the Departmental Authorities to call for names from subordinate staff selection has been strictly in accordance with the Departmental Rules and instructions and in view of this the first prayer of the applicant for a direction to the Departmental Authorities not to appoint any direct recruit to the vacant post is also held to be without any merit and is rejected.

J.S.M

4. In the result, the OA is dismissed in terms  
of the discussions made above. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
11/2/000

KNM/CM.