

Mr. D. R. Patnaik  
K.C. for the Petitioner

(C)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O.A./I.A./R.A. No..... 612..... 1996

Ramesh Ch. Langah..... Applicant(s)

V. O. I. Law..... Versus

Respondent(s)

Sr. No	Date	Orders	Office note as to action (if any) taken on order
	19.8.96	REGISTER  S Registrar	1. P.O. for 18.50/- has been filed D 19896.
1	22.8.96	Heard Shri D.R. Patnaik, learned counsel for the petitioner. Orders on admission is reserved.  MEMBER (ADMINISTRATIVE)	for Regn fl. D 19896 SOL (D) D 19.08.96
2.	28-8-96	In this Original Application the relief sought is as under:  i) To declare the test conducted on 3-2-1996 by the Railway Administration as illegal and arbitrary and consequently no order of appointment should be issued until the Original Application is disposed of;  ii) To pass such other order as deemed fit and proper;  The interim relief sought is that until disposal of the Original Application, the result pursuant to the Notice dated 24.1.1996 vide Annexure-9 should not be published.  The reason for this prayer is that the applicant alleges arbitrariness in the written test conducted by the Opp.	Registrar  May be placed for registration please.  SOL 21.8.96 S-O Registration S  for admission of interim prayer S Bath Bench

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order															
2	28-8-96	<p>Parties. His grievance is that the mode of selection and setting up of questions are arbitrary and violative of the Statutory Rules. Under the guidelines, the evaluation has to be done by considering the following aspects.</p> <p><u>E (NG).I.69/PM 1-126, dated 18.9.1969.</u></p> <table> <thead> <tr> <th></th> <th>Maximum Marks.</th> <th>Qualifying Marks.</th> </tr> </thead> <tbody> <tr> <td>(i) Professional ability.</td> <td>50</td> <td>30</td> </tr> <tr> <td>(ii) Personality Address, Leadership and academic qualification.</td> <td>20</td> <td>-</td> </tr> <tr> <td>(iii) A record service</td> <td>15</td> <td>-</td> </tr> <tr> <td>(iv) Seniority.</td> <td>15</td> <td>-</td> </tr> </tbody> </table> <p>The applicant thinks that the Opp. Parties had set the questions in an arbitrary manner and he alleges favouritism. He states that he filed a representation on 8-8-1996 praying for cancellation of the written examination.</p> <p>I do not find any merit in this petition. No cause of action has been made out. Annexure-10 is the question paper for the written examination for the Post of O.S. Gr. II held on 3-2-1996 at Senior Divisional Engineer's Office, Khurda Road.</p> <p>Ex facie Shri Pattnaik learned counsel</p>		Maximum Marks.	Qualifying Marks.	(i) Professional ability.	50	30	(ii) Personality Address, Leadership and academic qualification.	20	-	(iii) A record service	15	-	(iv) Seniority.	15	-	
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....2	28-8-96	<p>appearing for the Applicant could not convince me of any irregularity in the framing of question papers. The applicant should have protested against the question papers or the alleged infirmities, if any, in the conduct of the examination immediately after the written examination. The results of Written examination were declared and the Viva-voce test was also over. It is very late now for the applicant to protest. From the guidelines quoted by the applicant himself, it is only 50 per cent of the marks secured by the Applicant in the Written examination that would be considered. Other 50% is distributed thus; 20% of the marks for the Viva-Voce, 15% for career including service records and 15% for seniority. The applicant states that the Respondents have not considered his representation for giving him proper seniority. By allowing him his allegedly higher seniority, he would have got better marks against the seniority column. His representations in this regard are Annexure-2 dated 10-4-1983, Annexure-3 dated 9.6.93, Annexure-4 dated 10.4.1994, Annexure-5 dated 4.8.1994. The point is that if his seniority has not been properly fixed, that is no ground for invoking the writ jurisdiction of this Court to quash the examination or</p>	

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...2	28-8-96	<p>to stay the declaration of the results.</p> <p>He should have moved this Court at the appropriate time in 1988 when he felt aggrieved about his juniors being shown above him. Even if the Respondents have not rigorously and rigidly adhered to the guidelines that would not per se vitiate the examinations as long as they are conducted in a free, fair and impartial manner, the applicant can not after appearing in the said examination impugn the same six months after the examinations are over. There is, therefore, no cause of action for which this application can be admitted. Accordingly, the application is dismissed at the admission stage itself.</p> <p>The Representations, Annexures-1 to 5 show that the applicant's seniority had not been considered at all by the Senior Divisional Personnel Officer who is impleaded in this Application as Respondent No.2. The sum and substance of the applicant's case is that he was appointed to Class-IV category on 23.9.1963, promoted as Junior Clerk on 8.10.1970, promoted as Senior Clerk on 1.10.1980 and promoted as Head Clerk on 2.6.1986 in accordance with Rules whereas his juniors Shri K.C.Panigrahi, Shri P.K. Mohanty and Shri Mukunda Behera</p>	

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....2	28-8-96	<p>who are far junior to him both in the initial appointment grade as well as in the promotional grade have been placed in the seniority list above him. This has affected his promotion and adversely affected his grading in the Viva-voce test where seniority is given weightage. These representations, according to the averments, have not been disposed of. I would direct Respondent No. 2 <del>to</del> <sup>fatw</sup> to dispose of these representations within a period of eight weeks from the date of receipt of a copy of this order and the applicant shall also be given an opportunity of being heard before disposing of the said representations.</p> <p>Thus, the Original Application is disposed of - dismissed with the above directions.</p> <p><i>Karan Singh</i> 28/8/96. MEMBER (ADMINISTRATIVE)</p>	<p>A copy of the order dt. 28.8.96 may be sent to respondent by registered post with application copies &amp; one same copy of the order may also be handed over to the applicant's counsel.</p> <p><i>R. Singh</i> 30/8/96</p> <p>S.D. Recd copy of the order dt. 28.8.96 Amritsar A/C 30/8/96</p>