

6
7
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 67 of 1996

Cuttack, this the 25th day of May, 2000

Bangali Rout APPLICANT
VERSUS-
UNION OF INDIA & ORS 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.

J.S.D.
(J.S.DHALIWAL)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
25-5-2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 67/96
Cuttack, this the 25th day of May, 2000.

C O R A M :

HONOURABLE SHRI SOMNATH SOM... VICE-CHAIRMAN
HONOURABLE SHRI J.S.DHALIWAL... MEMBER (JUDICIAL)

Sri Bangali Rout, S/o: Bhima Rout,
aged about 47 years,
At/P.O. Kendupadar, Via: Nimina,
Dist: Ganjam, at present working as
Laboratory Assistant, Regional Leprosy
Training and Research Institute, Aska, Ganjam

..... Applicant

For Applicant ... Miss Deepali Mohapatra
Mr. S.K. Parida
..... Advocates

-Versus-

1. Union of India, represented through the Secretary, Ministry of Health and Family Welfare, New Delhi.
2. D.G.H.S., Nirman Bhawan, New Delhi.
3. Director of Regional Leprosy Training and Research Institute, Aska, Berhampur, Ganjam.
4. Santosh Ku. Dash, Laboratory Technician, Regional Leprosy Training and Research Institute, Aska, Berhampur, Dis; Ganjam

.... Respondents.

For Respondents ... Mr. A. Routray,
Addl. Std. Counsel
(For Resp. 1 to 3)

M/s. Sisir Das
Biswajit Parida
(For Respdt No. 4)

ORDER

MR. J. S. DHALIWAL, MEMBER (JUDICIAL)

Applicant, Mr. Bangali Rout, has filed the present Original Application challenging the selection of Respondent No. 4 to the post of Laboratory Technician in the office of the Regional Leprosy Training and Research Institute, Aska. He has prayed for quashing the selection and seeks his own appointment in his place.

2. Facts in brief, are that in response to the advertisement at Annexure-1, dated 11.3.1995, applications for the above mentioned post were invited from the eligible candidates and the last date for submission of such applications was 26.03.1995. Applicant had also applied for the said post and prays that he was entitled to be appointed being ex-serviceman. His further plea is that Respondent No. 4 had fraudulently obtained the certificate to indicate that he was having the requisite two years of experience as Laboratory Technician. We do not intend to go to the too many facts as those are not required for the decision of this case.

3. Respondents have filed the written reply denying that the experience certificate produced by Respondent No. 4 was false. They have mentioned that they have confirmed that Respondent No. 4 had obtained the certificate from Dr. Mrs. Sunanda Mohanty (Annexure-R/1) and the certificate from Prof. and Head of the Department of Microbiology, SCB Medical College, Cuttack, mentioning that Respondent No. 4 had worked as a Laboratory Technician from April, 1993 to November, 1994 with the former Dr. Mrs. S. Mohanty and with the Prof. and Head of the



-3-

Department from 12.12.1994 to the date of issue of the certificate i.e. 21.3.1995.

4. Respondent No. 4 has also filed a separate written reply adopting the pleas taken by the official Respondents. He has mentioned that he passed the examination of Laboratory Technician Training Course in March, 1993. Remaining parts given by him are as per the averments made by the Official Respondents in their written reply.

5. Applicant has also filed a rejoinder to the counter filed by the Respondents.

6. We have heard Mr. S. K. Parida, learned counsel for the applicant and Mr. A. Routray, learned Additional Standing Counsel appearing for the Departmental Respondents and have also perused the records.

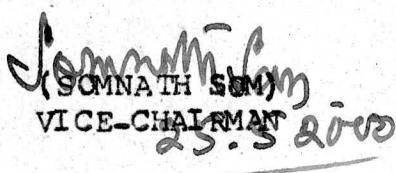
7. Learned counsel for the applicant has argued that the eligibility of an applicant for a particular post is to be considered with reference to the date of advertisement or if there is a date mentioned as last date for receipt of applications that can be taken to be a cut off date. He states that even if the cut off date is to be taken as 26.3.1995 which is the last date for receipt of applications, by that date Respondent No. 4 was not possessed of the requisite experience. We have considered the calculation given by him and find that upto the relevant date mentioned above, Respondent No. 4 falls short of the requisite experience of two years though by a few days only. Applicant places reliance of the judgment of the Hon'ble Supreme Court in the case of ASHOK KUMAR SHARMA AND OTHERS VRS. CHANDER SHEKHAR AND ANOTHER REPORTED IN 1997(4) Supreme 320. We find that the contention raised is supported

by law. There are other judgments of the Hon'ble Supreme Court which are:

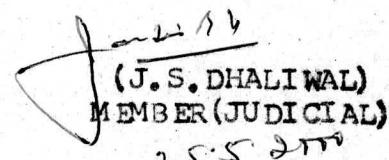
- a). Rekha Chaturvedi (smt.) vrs. University of Rajasthan and others reported in 1993 Suppl. (3) SCC 168;
- b) U.P. Public Service Commission, Allahabad vrs. Alpana (1994) 3 RSJ 438;
- c) Dr. (Miss.) Arvind Khanna vrs. State of Punjab - 1996 (1) RSJ 648;

8. Considered. In the light of the law as laid down by the Hon'ble Supreme Court, we are of the opinion that the selection of Respondent No. 4 can not be sustained under the law. We, therefore, allow this Original Application and quash the selection and appointment of Respondent No. 4 to the post of Laboratory Technician under the Respondents with immediate effect. Since we are not sure about the position of the applicant in that selection we direct the Respondents to consider the case of the applicant alongwith others to find out as to whether he would have come on merit for being selected and appointed against the aforesaid post. If he is found most meritorious as to deserve appointment as per the selection in which Respondent No. 4 was selected, Official Respondents shall give appointment to the applicant to the said post.

9. In the result, the Original Application is allowed.
No costs.


(SOMNATH SURI)
VICE-CHAIRMAN
25.5.2003

KNM/CM.


Jan 11
(J.S. DHALIWAL)
MEMBER (JUDICIAL)
25.5.2003