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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

O.A.NO.781 OF 1996

Cuttack, this the ^{29th} day of April, 2003

Shri Rashmi Ranjan Bastia

.....

Applicant

Vrs

Union of India and others

.....

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *no*

[Signature]
(MR. MOHANTY)

MEMBER (JUDL.)

[Signature]
(B.N.SOM)

VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK

O.A.NO. 781 OF 1996

Cuttack, this the ^{29th} day of April, 2003

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDL.)

.....

Shri Rashmi Ranjan Bastia, aged about 36 years, son of Niranjan Bastia, Cameraman,
Postal Printing Press, Bhubaneswar Dist. Khurda...

..... Applicant

Advocates for the applicant -

M/s Ganeswar Rath,

S.Mishra, A.K.Panda & S.R.Mohanty

Vs.

1. Union of India, represented by the Director General-cum-Secretary,
Department of Posts, Dak Bhawan, New Delhi 110 001.
2. The Secretary, Union Public Service Commission, Dholpur House, New
Delhi 110 011
3. The Chief Post Master General, Orissa Circle, Bhubaneswar 1,
Dist. Khurda.
4. The Manager, Postal Printing Press, Bhubaneswar 10, Dist. Khurda.
5. The Deputy Divisional Manager (PLI), office of the CPMG(O),
Bhubaneswar 1

..... Respondents

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

1. This Original Application has been filed by Shri Rashmi Ranjan Bastia, assailing the advertisement issued by the Respondents, at Annexure 5, regarding Special Recruitment Drive for SC/ST for filling up two posts of Technical Officer in the Postal Printing Press, Bhubaneswar and seeking a direction of this Tribunal to the Respondents to consider the case of the applicant for promotion to the post of Technical Officer with effect from the date the applicant was eligible to hold the aforesaid post. He has also prayed for staying operation of the advertisement at Annexure 5.

2. The Tribunal vide its order dated 5.12.1996 stayed the recruitment for two posts of Technical Officer. The said order was amended by the Tribunal by its order dated 1.10.1999 that one post, out of three posts of Technical Officer, be kept vacant till the disposal of the Original Application.

3. The applicant through this Application is seeking promotion from his present grade of Cameraman (Rs.1400-2300) to the grade of Technical Officer (Rs.2000-3200). In support of his claim, he has submitted that the Respondents by their advertisement at Annexure 5, attempted to fill up two posts under reserved category, one for SC and the other for ST, which is contrary to the roster position to be maintained by the Department under Department of Personnel & Training Office Memorandum No.36011/33/81-Estt.(SCT) dated 5.10.1981. Since there are three posts, according to the applicant, one post falls under reserved category for SC and the remaining two are to be treated as unreserved. If two posts are available under unreserved category, the applicant's plea is that he should be coming within the zone

of consideration for promotion, he being recruited as Cameraman from 1.12.1986. Referring to the Revised Recruitment Rules dated 25.11.1994 he has submitted that all the three posts of Technical Officer have been identified for filling up by direct recruitment and that such a step was a retrograde step thereby closing promotion prospects of the promotees. In support of his submission, he has relied on Raghunath Prasad Singh's case reported in AIR 1988 SC 1033. The applicant, referring to Annexure 1, has stressed that the Respondents should have granted him promotion in terms of these Recruitment Rules which they have failed to do.

4. The Respondents have contested all these allegations of the applicant by filing a counter. They have raised the question of limitation also that the applicant has challenged the notification dated 25.11.1994 in October 1996. More than that, they have stated that the Rules annexed as Annexure 1 to the O.A do not pertain to the Postal Printing Press, Bhubaneswar, but that these govern recruitment to the post of Technical Officer of Central Government Printing Presses under the Directorate of Printing, Ministry of Urban Development. They have submitted that the applicant, at the time of filing the O.A., was not eligible for promotion to the post of Technical Officer as the same was to be filled by direct recruitment only, for which the reservation roster to be followed is the 200 point roster, as per which the first vacancy is reserved for SC, the second vacancy is unreserved and the third vacancy is reserved for ST. They have, therefore, explained that the advertisement published by the Respondents at Annexure 5 was correctly notified as vacancies were reserved for SC and ST and only two vacancies were notified as one post of Technical Officer was already filled up by an unreserved category candidate. Refuting the allegations

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(14)

of the applicant, they have submitted that the Recruitment Rules for the post of Technical Officer under the Respondent - Department were notified only in November 1994. It has also been clarified by the Respondents that no promotion method has been prescribed for recruitment to the post of Technical Officer in the Postal Printing Press as there is no adequate feeder cadre available to form the zone of consideration. They have further stated that while the number of posts of Technical Officer is three, there is only one post of Artist Retoucher, three posts of Offset Machine Man Grade I and one post of Cameraman in the Press. It is because of this feeder cadre structure that promotion method could not be prescribed for maintaining the grade of Technical Officers.

5. The applicant has not filed rejoinder to the counter filed by the Respondents.

6. We have heard the learned counsels for both the parties and have also perused the records placed before us. We have also gone through the Recruitment Rules.

7. The important issues, raised in this Application, are, whether promotion method is available for filling up the post of Technical Officer in the Postal Printing Press, Bhubaneswar, and whether the applicant was denied of his legitimate right for consideration for promotion to the post of Technical Officer. In this matter, we have at length heard the submissions made by Shri G.Rath, the learned counsel for the applicant, who argued that the promotion method was very much available for filling up the post of Technical Officer and he took us in depth to the various provisions of the Recruitment Rules at Annexure 1. He argued that before promulgation of the Recruitment Rules dated 25.11.1994, the Recruitment Rules at Annexure 1 ruled the ground and the applicant was entitled to the benefit of those Recruitment Rules. In reply, Mr.B.Dash, the learned Addl. Standing Counsel has

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drawn our attention to the following facts. He submitted that the Postal Printing Press, which was established at Bhubaneswar on 14.6.1986, has three posts of Technial Officer. There have been three Recruitment Rules notified from time to time governing recruitment to those posts. The first set of Recruitment Rules was notified on 21.2.1986 providing mode of recruitment either as direct recruitment or by deputation from Central/State Government Presses. The second one was notified on 27.8.93 which provided 66.2/3% by promotion, failing which by direct recruitment. The eligibility condition for promotion – Promotion of Offset Machine Man (Special Grade), Film Setter Operator or Artist Retoucher with 5 years regular service in the grade, failing which Offset Machine Man Grade I or Cameraman with eight years of regular service in the grade, failing which by direct recruitment. These Rules were superseded by the Recruitment Rules published on 25.11.1994 which prescribed only direct recruitment as method of filling up these posts. From the submissions made by the learned Senior Standing Counsel, it is clear that promotion method was available for filling up these posts only for a short period between 27.5.1993 and 24.11.1994. However, promotion method was scrapped when the Recruitment Rules were notified in November 1994 on the ground that the feeder grade was inadequate to sustain the promotion method.

8. The applicant has disclosed that he is in service as Cameraman since 1.12.1986. According to the Recruitment Rules of August 1993, a Cameraman with eight years of regular service in the grade is eligible for consideration. By this yardstick, the applicant was not eligible for consideration, according to the eligibility conditions prescribed in the Recruitment Rules of August 1993, because he would have completed eight years regular service only in December 1994, by which time the promotion method was no longer available.

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9. Some complexity has cropped up in this case due to, we should say, reluctance of both the sides in coming up with the Recruitment Rules governing method of recruitment for the post of Technical Officer between 1986 and 1996 when this O.A. was filed. Had all the Recruitment Rules been made available in the first instance, it would have been far easy for disposing of the matter long back. Here is a case where the applicant has not approached this Tribunal with clean hands. In facts, even when the promotion method was made available for filling up the post of Technical Officer, he had not picked up the eligibility condition. That apart also, his turn would have come up for consideration only after there was none found eligible from the groups (1) Offset Machine Man (Special Grade), (2) Film Setter Operator, (3) Artist Retoucher, and (4) Offset Machine Man Grade I. That would have been a very long haul. Be that as it may, our finding is that there is absolutely no merit in this Original Application and the same is dismissed accordingly. Accordingly, our order dated 1.10.1999 is vacated. We hope and trust, the Respondents would take action within next ninety days to fill up the vacant post of Technical Officer under promotion quota, if anyone was eligible during the year 1993-94 when one vacant post was available.


(M.R. MOHANTY)

MEMBER(JUDICIAL)


(B.N. SOM)

VICE-CHAIRMAN

AN/PS