

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 220 OF 1998.

Cuttack, this the 15th day of May, 2000.

MAN MOHAN SAHOO.

....

APPLICANT.

VRS.

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. Dhaliwal
(J. S. DHALI WAL)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

10
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

original Application No. 220 OF 1998.

Cuttack, this the 15th day of May, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. J.S. DHALI WAL, MEMBER (JUDICIAL).

MANMOHAN SAHOO, Aged about 29 years,
S/o. Babaji Charana Sahoo,
At/Po; Kadali garh, Rairakhol,
Dist; Sambalpur-6.

.... APPLICANT.

By legal practitioner; Mr. Asok Kumar Mishra (3)

-VRS.-

1. General Manager,
South Eastern Railways,
Garden Reach,
Calcutta-43.

2. Railway Recruitment Board, A-84,
represented through its Secretary,
O.F.D.C. Building 2nd Floor,
Kharabalanagar Uni-3,
Bhubaneswar-1.

.... RESPONDENTS.

By legal practitioner : Mr. S.R. Patnaik, Additional Standing
Counsel for Res.No.1;

M/s. D.N. Mishra,
S.K. Panda,
S. Swain,
Standing Counsel for Res.No.2.

...

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 has prayed for
a direction to the respondents to treat the applicant as an
OBC candidate and empanel him in order of merit for the post of
Probationary Assistant Station Master by publishing a fresh

merit list in supersession of the merit list at Annexure-7.

2. For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case. The admitted position is that there was a vacancy circular (Annexure-R/1) on 1.10.1996 notifying 196 vacancies in the posts of Probationary Assistant Station Master, consisting of 8-for ST, 36-for SC, 59 for OBC and 93 for unreserved category of candidates. Petitioner applied for the post stating that he is an OBC candidate. Copy of his application is at Annexure-R/2. He was called for a written test in which he qualified and he was thereafter called to a viva-voce test. Applicant has stated that alongwith his Original application he has submitted a certificate dated 3.6.1996 (Annexure-1) of Tahasildar, Rairakhol certifying that he belongs to S.E.B.C. under Govt. of Orissa and he does not belong to creamy layer. Another certificate dated 16.10.1996 (Annexure-2) was also filed by him issued by the Revenue Officer, Kuchinda. Applicant has stated that during the viva-voce test he was asked to submit another caste certificate within seven days. Accordingly, he submitted another caste certificate on 24.9.97. Applicant has stated that he has done well in the viva-voce test but when the list of successful candidates came up he found that his name was not incorporated therein. He apprehends that he has not been treated as an OBC candidate and that is why, he has come up in this Original Application with the prayer referred to earlier.

3. Respondent No.2 has filed counter opposing the prayer of applicant.

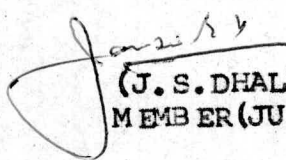
4. When the matter was called, Mr. A.K. Mishra-3, learned counsel for the applicant was absent. As in this case pleadings have been completed long ago, it was not possible to drag on the matter indefinitely. In view of this, we have heard Mr. S.R. Patnaik, ^{Addl. Standing} learned/counsel for Respondent No.1 and Mr. D.N. Mishra, learned Standing Counsel appearing for Res. No. 2 and have also perused the records.

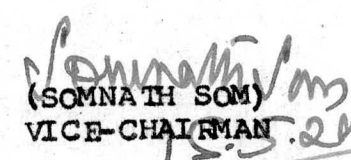
5. From the pleadings of the parties, we find that according to the vacancies circular, the last date of submission of application was 07-11-1996. In other words, the eligibility of the candidates who have applied is to be determined with reference to 7.11.1996. It has been submitted by Respondents that the applicant belongs to 'PATARA' caste and this community has been declared as belonging to OBC by Government of India in their notification dated 6.12.1996 which has been filed as enclosure to Annexure-R/3. It is submitted that as the Govt. of India declared PATARA caste as belonging to OBC in the notification dated 6.12.1996, the applicant could be treated as an OBC caste only from 6.12.1996. In other words, on the last date of receipt of application i.e. 7.11.1996, he could not have been treated as an OBC. In view of this, it is clear that the applicant can not be treated as an OBC caste on 7.11.1996. In view of this the prayer of applicant to treat him as an OBC in the process of examination and selection on the ground of his caste having been declared subsequently as OBC is held to be without any merit and is rejected. It is a well settled position that all executive orders take effect prospectively unless it specifically provides that the same will take effect retrospectively. In view of this the notification of Govt. of

India dated 6.12.1996 must be taken as prospective only.

6. In the midst of the hearing Mr. A.K. Mishra-3, learned counsel for the applicant appears and makes his submission. We have heard Mr. A.K. Mishra-3, learned counsel for the applicant.

7. In the light of the discussions made above, we find no merit in this original Application which is accordingly rejected. No costs.


(J. S. DHALI WAL)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.