

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.597/98

Cuttack, this the 16<sup>th</sup> day of April, 2004

Suresh Kumar Sahu .....

Applicant

Vrs.

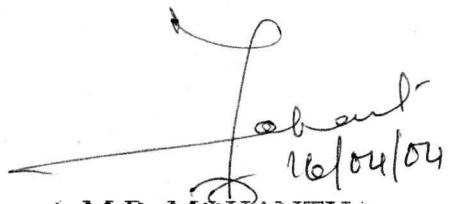
Union of India & Others .....

Respondent

FOR INSTRUCTIONS

(1) Whether it be referred to the Respondents or not? *✓*

(2) Whether it be circulated to all the Benches of the Central  
Administrative Tribunal or not? *✓*

  
16/04/04  
( M.R. MOHANTY )

MEMBER (JUDICIAL)

  
( B.N. SOM )  
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL  
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CORAM:

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

&

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

Suresh Kumar Sahu, aged about 29 years, S/o Late Dasarath Sahu, At/P.O.-  
Modipara, Dist-Sambalpur.

..... Applicant.

By the Advocate(s) ..... Mr. S.K. Purohit

-Vrs-

1. Union of India, Represented by General Manager, South Eastern  
Railways, Garden reach, Calcutta-43.

2. Divisional Railway Manager (P), S.E., Railway, Sambalpur.

..... Respondent(s)

By the advocate(s) ..... Mr. B.K. Bal

ORDRE

SHRI B.N. SOM, VICE-CHAIRMAN

This O.A. has been filed by Shri Suresh Kr. Sahu who was a candidate for recruitment for Group 'D' staff for operating Department of S.E. Railway, Sambalpur Division. He having not been offered an appointment has approached this Tribunal to cancel the selection list prepared by the Respondents on the ground that the list contained names of candidates belonging to SEBC category who were given preference in

selection although no such condition was advertised in the employment notice dated 3.11.97 issued by Respondent No2 at Annexure-1.

2. The factual matrix of the case is that the applicant who is a graduate applied for the post in response to the advertisement at Annexure-1. He came out successful in the written test and also did well in interview and was hopeful to be finally selected. However, on 02.11.1998, when the list of successful candidates was finalized his name did not find place in that list. From the office of the Respondent. He came to know that the candidates who were belonging to S.E.B.C. (Socially and Educationally Backward Communities/Classes) had been included in the list treating them as OBC candidates. His allegation is such a method was adopted in a clandestine manner by the Respondents with some ulterior motive and to discriminate applicant. Further, initially 40 posts were advertised, but later on the number was raised to 130, reserving 35 posts for OBC and 30 post for SC/ST. He has therefore approached the Tribunal to have the select list cancelled and to direct the Respondents to prepare a new list excluding the candidates allowed to change their community from SEBC to OBC that being discriminatory and bad in law.

✓

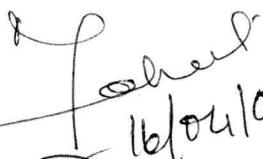
3. The Respondents have admitted that initially the number of posts advertised was 40, which was later increased to 130, reserving 35 posts for OBC & 30 for SC/ST. They have also admitted that on scrutiny of the applications they had found that a large number of candidates belonging to SEBC had applied for the post. Those candidates were consciously allowed to sit for the examination as most of SEBC category of candidates in Orissa were coming under OBC category and that most of them had not obtained the requisite OBC certificates for applying for Central Government jobs at that point of time. They were, therefore, given an opportunity to submit OBC certificates before the finalisation of the results so as to be considered against reserved category vacancies in OBC for selection & appointment. Only those candidates who could submit valid OBC certificates from the competent authority before the publication of the results were selected on merit. They have further stated that it is not the case of the Applicant that among the OBC category his performance in the written test and viva-voce test was such that he could have found place in the list of successful candidates had other candidates not been brought into the selection process. They finally submitted that the marks obtained by him both in the written test as well as in the interview were not good enough to

be in the list of 35 successful OBC candidates and so he could not be offered appointment.

4. We have heard Shri S.K. Purohit, Ld. Counsel appearing for the applicant and Shri B. Pal, Senior Counsel and Shri B.K. Bal, Ld. Counsel appearing for the Respondents and have perused the records placed before us. The applicant had submitted rejoinder to the counter and the Respondents had also submitted additional counter.

5. The thrust of the allegation of the applicant is that had the Respondents not allowed the SEBC candidates who appeared in the examination to submit OBC certificate from the competent authority before publication of result he could have found a place in the select list of OBC candidates. To prove this point to the hilt, we had called upon the Respondents to place before us the result of the examination in original in respect of OC, OBC, SC & ST candidates. We have also perused the marks secured by the OBC candidates including the applicant and find that whereas the applicant secured 60.66% of marks in total, the last candidate to be taken from the OBC quota had secured 69.33% of marks. From the above fact of the case it is clear that the allegation levelled by the applicant lacks in merit. We refrain from expressing any opinion on the validity of the action of the Respondents in increasing the number of vacancies after

publication of the recruitment notice or allowing SEBC candidates to file OBC certificates for enjoying the reservation benefit on the ground that the applicant had not secured marks above the cut off mark set for the OBC candidates and all those 35 OBC candidates empanelled had secured marks in the range of minimum of 69.333% to the maximum of 75.333%. In result this O.A. fails. We order accordingly. No costs.

  
16/04/04

( M.R. MOIANTITY )  
MEMBER (JUDICIAL)

  
(B.N. SOM)  
VICE-CHAIRMAN

CAT/CTC  
Kalpeswar