

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.618 OF 1998  
Cuttack this the 22nd day of June 2000

Kishora Kumar Nayak

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

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

*G. Narasimham*  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*22/6/2000*

13

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 618 OF 1998  
Cuttack this the 22nd June, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE SHRI G. NARASIMHAM, MEMBER (JUDICIAL)

...

Sri Kishora Kumar Nayak  
aged about 26 years  
S/o. Sri Bharat Chandra Nayak  
At: Patala, PO: Sasanga  
Dist: Keonjhar

Applicant

...

By the Advocates : M/s. B.M. Patnaik  
M.N. Satapathy  
R.K. Dash  
B.K. Dash  
S.C. Behera

-Versus-

1. Union of India represented through its  
Chairman-cum-Ex. Officio Secretary  
Ministry of Railways,  
Govt. of India  
Rail Bhawan  
New Delhi
2. Chairman,  
Railway Board,  
Rail Bhawan  
New Delhi-110001
3. Chairman,  
Railway Recruitment Board  
Bhubaneswar At: Forest Corporatin Building  
PO: Kharavel Nagar  
Bhubaneswar-751001

*S. Som.*

...

Respondents

By the Advocates : M/s. D.N. Mishra  
S.K. Panda  
S. Swain

....

ORDER

MR. SOMNATH SOM VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act 1985 the petitioner has prayed for quashing notification at Annexure-2 and to direct the respondents to publish the result of the written test held on 29.3.1998 and to conduct interview as per instructions of Res. 1 and 2.

2. The departmental respondents have filed their counter opposing the prayer of the applicant.

3. This matter came up on several occasions for serving copy of counter on the learned counsel for the petitioner Shri B.M.Patnaik who is an outstation lawyer. On none of the occasions Shri Patnaik was present nor his associates filing power. In view of this learned Standing Counsel Shri D.N.Mishra was directed to send copy of counter through Regd.Post to Shri B.M.Patnaik. It is submitted by Shri Mishra that accordingly counter was sent to Shri Patnaik through Regd.Post and he would file a memo to this effect in course of the day. Today when the matter was called learned counsel for the petitioner and his associates were not present nor any request has there been made on their behalf seeking adjournment. In view of this it will be fruitless to drag on the matter indefinitely. We have therefore heard Shri D.N.Mishra learned Standing Counsel appearing for the respondents and also perused the records.

4. Facts of this case fall within a short compass. In response to an advertisement at Annexure-1 the petitioner applied to the Railway Recruitment Board for the post of Apprentice Signal Maintainer Gr.III. He was called to written test on 29.3.1998 which he took. On the basis of the written test viva voce was due to be conducted, but in the

15

impugned notice at Annexure-2 published in the newspaper, Railway Recruitment Board issued instructions stating therein that as per orders received from Railway Board the written examination has been cancelled and the fresh written examination ~~would~~ be held on 10.1.1998 and all the candidates who had taken the earlier written examination would be entitled to appear. The applicant has annexed a letter dated 20.4.1998 from the Railway Board to Chairman, Railway Recruitment Board in which Railway Recruitment Board have been directed to hold up the ~~process~~ of selection in all cases. It has also been mentioned that where written tests have already been completed but interview have not been held fully or partly or panels have not been finalised fresh interview would be conducted for which revised instructions are being issued separately. Applicant's case is that in his case written test was already over. Only interview had to be held after publication of the result in the written test and therefore written examination should not have been cancelled. In the context of the above facts the petitioner has ~~approach~~ed the Tribunal with the prayers referred to earlier.

5. Respondents in their counter have stated that written test has been cancelled not in accordance with letter at Annexure-3 cited by the applicant. They have stated that written examination has been cancelled on the basis of another instructions of the Railway Board which would be produced before the Tribunal if so directed. Respondents have also stated that it is within the powers of the Railway Recruitment Board to cancel and order fresh written examination. On these grounds respondents have opposed the prayer of the applicant.

6. We find from the notice under Annexure-1

itself in which it has been mentioned that Railway Recruitment Board will have powers to hold additional written examination and/or fresh written examination. As the earlier written examination has been cancelled and fresh written examination has been ordered to be held on 10.1.1999 and the applicant who had appeared at the earlier written examination is also entitled to appear in the 2nd written examination, rights of the applicant have not been violated in any way. In any case, result of the first written examination has not been published and it cannot be said if the applicant has come out successful in that text. Simply by appearing the test no right <sup>has</sup> is accrued <sup>to</sup> on the applicant. In view of this and in view of the fact that the first written examination has been cancelled under orders of the Railway Board and it is also within the powers of the Railway Recruitment Board to cancel such examination we hold that the Railway Recruitment Board has not committed any illegality in cancelling the written examination. As regards prayer for quashing notice at Annexure-2, with the cancellation of the first written examination a fresh examination will have to be conducted and therefore there is no case for quashing the notice at Annexure-2. In view of the above discussions we hold that the applicant has not been able to make out a case for any of the reliefs prayed for. The Original Application is therefore held to be without any merit and the same is rejected, but without any order as to costs.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN 6/2/00

B.K.SAHOO//