

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 626 OF 1998
Cuttack, this the 28th day of September, 2000

Arun Kumar Ray

...Applicant

Vrs.

Union of India and others ...

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.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

28.9.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 626 OF 1998
Cuttack, this the 29th day of September, 2000

CORAM:

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

Arun Kumar Ray, aged about 27 years, son of Asis Ray, Labour
Tenament, Qtr.No.213, At/PO-Charbatia, P.S-Choudwar,
Dist.Cuttack-754 028 (Orissa)

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Applicant

Advocates for applicant - M/s S.N.kar
S.C.Mishra
A.K.Rath
D.C.Ray

Vrs.

1. Union of India represented by its Secretary to
Government in Ministry of Defence, At-Central
Secretariat, New Delhi.
2. Director General of Security, Aviation Research Centre
(Directorate General of Security), Cabinet Secretariat,
Block East-V, R.K.Puram, New Delhi.
3. Asst.Director (Administration), Aviation Research
Centre, Directorate General of Security, Cabinet
Secretariat, Block East-V, R.K.Puram, New Delhi
.....
Respondents

Advocate for respondents - Mr.S.Behera
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

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In this application the petitioner has prayed
for a direction to the respondents ~~for a direction to the~~
~~respondents~~ to act upon the select list in which the
applicant has been shown at serial no.2 for appointment to
the post of Field Assistant in the General Category and to
issue appointment order to him quashing the two subsequent
advertisements for recruitment to the post of Field
Assistant at Annexures 1 and 2.

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2. The applicant has challenged the O.M. dated 28.6.1996 (Annexure-1) and O.M. dated 4.2.1998 (Annexure-2). In the first memo at Annexure-1 applications have been invited for filling up 20 posts of Field Assistant by way of direct recruitment. The last date of receipt of applications has been mentioned as 31.8.1996. In the second memo dated 4.2.1998 it has been mentioned that a few posts of Field Assistant (General) are proposed to be filled up by direct recruitment and the last date of receipt of applications is 24.2.1998. The applicant has stated that these two memorandums have been issued without exhausting the earlier select list of 1995-96 where the applicant has been placed at serial no.2 of General Category candidates. He has stated that he applied in 1994 for the post of Field Assistant to be filled up by direct recruitment and in letter dated 6.5.1994 (Annexure-3) he was asked to appear at a physical test and interview on 27.5.1994. The applicant has stated that he was selected for the post and in letter dated 16.2.1995 (Annexure-4) he was sent six sets of attestation forms and special security questionnaire to be filled up and returned by him. In this letter it was mentioned that mere submission of these forms would not stand a guarantee for appointment being offered to him. The applicant submitted the forms duly filled in and thereafter did not hear anything from the respondents. He heard that some posts of Field Assistant are being filled up and therefore he submitted a representation on 14.5.1998 to the Prime Minister. In response to this he was informed in letter dated 5.6.1998 (annexure-7) that his name has figured in the waiting list at serial no.2 in the general category.

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But as all the selected candidates have joined duty his request for employment cannot be considered. In the context of the above facts the applicant has come up in this petition with the prayers referred to earlier.

3. The respondents have filed counter opposing the prayer of the applicant. They have stated that the selection process was undertaken for ten existing and five anticipated vacancies of Field Assistants (General). The interview was held at Sarsawa from 23.5.1994 to 27.5.1994. A merit list was prepared for six General, four OBC, 3 SC and one ST candidates. Name of the applicant, who belongs to General Category, was kept at sl.no.2 in the waiting list of the General Category. The respondents have stated that a person in the waiting list can get appointment only if a person in the merit list or select list drops out. In the present case all the General candidates in the merit list joined their duties and therefore the applicant could not be considered for appointment. As regards the notifications for fresh vacancies at Annexures 1 and 2, the respondents have stated that the notification dated 28.6.1996 at Annexure-1 has been issued from the office of Director, S.S.B and the second notification dated 4.2.1998 has been issued from the office of Director General of Security, Cabinet Secretariat. They have stated that both these organisations have different administrative set up with their own cadres and Recruitment Rules, and Aviation Research Centre has nothing to do with the vacancies notified by these organisations and therefore the applicant cannot be considered for vacancies against those organisations. On the

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above grounds, the respondents have opposed the prayer of the applicant.

4. We have heard Shri S.N.Kar, the learned counsel for the petitioner and Shri S.Behera, the learned Additional Standing Counsel for the respondents and have also perused the record. The learned Additional Standing Counsel has relied on the decision of the Hon'ble Supreme Court reported in AIR 1997 SC 2619 (K.Jagmohan v. State of Kerala) which has also been taken note of. At our instance the learned Additional Standing Counsel has produced the Recruitment Rules for Field Officers in S.S.B. and the proceedings of the Selection Committee held on 23.5.1994 to 27.5.1994 in which the applicant appeared and these have also been taken note of.

5. From the above pleadings of the parties it is clear that the basic facts of this case are not in dispute. The applicant appeared for the post of Field Assistant and from the proceedings of the meeting of the Selection Committee it is noted that the applicant's name was no.2 in the waiting list. In this connection, it has to be mentioned that the respondents in their counter have stated that as against 15 vacancies, 10 existing and 5 anticipated, a merit list was prepared for six General, 4 OBC, 3 SC and 1 ST candidates. The above works out to 14 in total. From the proceedings of the meeting of the Selection Committee we find that actually there were seven General candidates, 3 SC and 3 OBC and 1 ST candidates. There was also a waiting list for all the different groups separately. In the waiting list for General Category, the applicant's name comes

under serial no.2 and above him there is one more person named R. Kasyap. As the applicant has not been put in the merit list and as he is in the waiting list he cannot claim appointment on the basis of such selection moreso when all the seven candidates, who were in the merit list, have joined their post, according to the respondents, on being offered appointment. The question of appointment from the waiting list arises only when somebody out of the merit list drops out or does not join. That is not the case here. Even if the ~~merit~~^{waiting} list had been operated, there is one more person above the applicant and therefore the applicant cannot claim that by his inclusion in the ~~merit~~^{waiting} list he has a right to get appointed. This contention is therefore held to be without any merit and is rejected.

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6. As regards Annexures 1, this memorandum notifying vacancies of Field Assistant (General), has been issued by Commandant (Recruitment) in the office of Director, Special Service Bureau (SSB). This is an organisation separate from Aviation Research Centre with separate Recruitment Rules which we have seen and therefore the applicant cannot claim that because of his position in the waiting list he should be given appointment against the post notified by another albeit sister organisation. This contention is also held to be without any merit and is rejected.

7. As regards the notification at Annexure-2, this has been issued by Aviation Research Centre, Directorate General of Security (Cabinet Secretariat). The selection process in which the applicant participated and was put

in the merit list had also been initiated by Aviation Research Centre, Directorate General of Security (Cabinet Secretariat). It is the same organisation. But on that basis the applicant cannot claim appointment against the notification at Annexure-2 in any of the vacancies notified therein. This is because with the appointment of all the seven candidates belonging to General Category in the selection/^{held} in 1994, that list exhausted itself and therefore the waiting list has ceased to have any force. By virtue of his inclusion in the waiting list, the applicant cannot claim appointment in future vacancies which had not been notified earlier. We have looked into the case of K. Jagmohan (supra). In that case the Hon'ble Supreme Court have held that where appointments have been made to the number of posts advertised and a candidate has been kept in the waiting list, he cannot claim right of appointment merely because he is kept in the waiting list. In the instant case all the seven posts for unreserved category have been filled up and therefore the applicant, who is no. 2 in the waiting list, cannot be said to have any right to get appointment as per the law laid down by the Hon'ble Supreme Court in K. Jagmohan's case (supra).

8. In the result, therefore, we hold that the application is without any merit and the same is rejected but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

28.9.2010