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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 668 OF 1998  
Cuttack, this the 6th day of July, 1999

Arun Kumar Jena and others ..... Applicants

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.*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*July. 99*

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.**

ORIGINAL APPLICATION NO. 668 OF 1998  
Cuttack, this the 6th day of July, 1999

**CORAM:**

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

.....

1. Arun Kumar Jena, aged about years, son of Manmohan Jena, At/PO-Anikana, Via-Kaipara, Dist.Jajpur.
2. Suvendu Kumar Jena, aged about years, son of Kambhupani Jena, At-Benjarapur, PO-Mandan, Dist.Jajpur.
3. Manash Ranjan Jena, aged about years, son of Madhusudan Jena, At/PO-Anikana, Dist.Jajpur.
4. Gobinda Chandra Jena, aged about years, son of Gayadhar Jena, At/PO-Anikana, Dist.Jajpur.
5. Ranjan Kumar Jena, aged about years, son of Balaram Jena, At/PO-Anikana, Dist.Jajpur.
6. Ajit Kumar Jena, son of Madan Mohan Jena, At/PO-Anikana, Dist.Jajpur.
7. Ramakanta Mohapatra, son of Bhajahari Mohapatra, At/-Krushnanagar, PO-Sherapur, Dist.Jajpur.
8. Manoranjan Tripathy, son of Niranjan Tripathy, At-Krushna Nagar, PO-Sherapur, Dist.Jajpur.
9. Arindra Kumar Jena, son of Panchanan Jena, At-Benjarapur, PO-Mandasi, Dist.Jajpur.
10. Dhirendra Kumar Jena, son of Utshab Chandra Jena, At/PO-Anikana, Dist.Jajpur.
11. Rajesh Chandra Swain, son of Digambar Swain, At/PO.-Sherapur, Dist.Jajpur.....Applicants

Advocates for applicants - M/s K.C.Kanungo  
S.Behera

**Vrs.**

1. Union of India, represented through its Secretary, Defence, Government of India, South Block, Central Secretariat, New Delhi-110 001.
2. Director General, Ordnance Factories, 10 A.S.K.Bose Road, Calcutta-700 001, West Bengal.
3. General Manager, Ordnance Factory, At/PO-Badmal, Dist.Balangir..... Respondents

Advocate for respondents - Mr.A.K.Bose  
Sr.C.G.S.C.

**O R D E R**

**SOMNATH SOM, VICE-CHAIRMAN**

In this Application under Section 19 of

Administrative Tribunals Act, 1985, the eleven petitioners, who have been permitted to pursue the Application jointly, have prayed for quashing Employment Notices at Annexure 1 series and for a direction to the General Manager, Ordnance Factory (respondent no.3) to give fresh notice to all medias including Press, T.V. and A.I.R. so as to enable all to have a chance in the process of selection.

2. Facts of this case, according to the petitioners, are that they are residents of Jajpur District and are unemployed educated youth. Respondent no.3 issued Employment Notice No.1/98 inviting applications for the following posts: Cook, Fitter/Gen/SS, Electrician/SS, Dhobi, Barber, PTI, CM-II/T/Mech, CM-II/T/Chem., LDC, CMD (OG), and Store Keeper. Through Employment Notice No.2/98 applications were invited for 50 posts of Danger Building Worker/SS. The applicants have stated that after the decision of the Hon'ble Supreme Court in the case of Excise Superintendent, Malkapatnama, Krishna District, A.P. v. K.B.N.Visweswara Rao and others, 1996(6) SCALE 670, Government of India, Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training, issued O.M. dated 18.5.1998 with regard to recruitment procedure for various posts. This O.M. copy of which is at Annexure-2 specifically provides that in addition to notifying the vacancies to the Employment Exchange the requisitioning authorities may, keeping in view administrative/budgetary convenience, arrange for the publication of the recruitment notice for such categories in the Employment News published by the Publication Division of the Ministry of Information & Broadcasting, Government of India and then consider the cases of all the candidates

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who have applied. In addition, such recruitment notice should be displayed in the Office Notice Boards for wider publicity. The applicants have stated that after coming to know about the Employment Notice some of them enquired about the procedure adopted for giving wide publicity and learnt that respondent no.3 has violated the above instructions and has not given wide publicity to the vacancies. Because of this, the applicants and many others have been deprived of chance of making application for consideration for various posts. In view of this, they have come up in this petition with the prayers referred to earlier.

3. By way of interim relief, it was prayed that pending disposal of the O.A., selection process as per Annexure-1 series should be stayed. On 23.12.1998 after hearing the learned counsels for both sides on the question of interim relief, it was ordered that the respondents may go ahead with the selection process, but the order of appointment shall be issued to the selected candidates only with the leave of the Court.

4. Respondents have filed counter and have also filed a petition for vacation of the interim order. The question of vacation of interim order came up before the Vacation Bench on 21.6.1999 and it was submitted by the learned Senior Standing Counsel for the respondents that in view of the prevailing situation in Jammu & Kashmir, the Ordnance Factory at Badmal, Balangir, has received instruction from higher authorities to increase production by four times. In view of this, he wanted the matter to be adjudicated early. Accordingly, the matter was taken up for adjudication on 30.6.1999.

5. Respondents in their counter have submitted that in compliance with the Employment Exchange

Rules, all these posts were notified to the Employment Exchange, Balangir and all subordinate Exchanges in the district and names were accordingly received. This practice was in vogue till respondent no.3 received a copy of the Department of Personnel's O.M. dated 18.5.1998 which is at Annexure-2 to the O.A. issued in pursuance of the decision of the Hon'ble Supreme Court in the case of **Excise Superintendent, Malkapatnama, Krishna District, A.P.(Supra)**. The respondents have also stated that the factory is situated in one of the backward areas of the country after acquiring land and displacing hundreds of people and therefore, the displaced persons and local populace have some genuine aspirations of getting employment in the factory and these have to be taken note of. It is also stated that one Deepak Panda and 61 others had filed OJC No. 15454 of 1997 before the Hon'ble High Court of Orissa in which respondent no.3 was also one of the opposite parties. The Hon'ble High Court in their judgment dated 11.8.1998 have directed the respondents to verify the residential/experience certificates of the selected candidates who, it was alleged, have obtained the certificates of being residents of district of Bolangir by fraud and misrepresentation. From this, it is stated by the respondents, it is clear that the Hon'ble High Court are also alive to the genuine aspiration and expectation of the local unemployed youth. The respondents have stated that besides calling for names from Employment Exchange, the vacancies were displayed on the Notice Boards and large number of applications have been received. At the time of hearing, the learned Senior Standing Counsel for the respondents has filed a memo with a tabular statement indicating the number of vacancies, number of candidates sponsored by the Employment Exchange and the number of

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applications received directly and the further steps taken with regard to selection. It is further stated that for 50 posts of Danger Building Worker invited in Employment Notice No.2/98, the respondents have received 3600 applications and therefore, it must be held that the method of notifying the vacancies has been adequate so as to get large number of applications.

6. We have heard Shri K.C.Kanungo, the learned counsel for the petitioners and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have perused the records. The learned counsel for the petitioners has filed a written note of argument with copy to the other side which has also been taken note of.

7. Before proceeding further the tabular statement given by the respondents indicating the number of vacancies and other details has to be noted.

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Sl. No.	Name of post.	No.of Vacancy	Candid-ates	Appls. received sponsored by Empl-oyment through Advt. Exchange.	Total.	Status of recruitment process.
1	Fitter Gen/SS	4	16	61	77	Written test not conducted Posts are to be advertised through DAVP
2	Dhobi	2	-	36	36	Selection over. Police Verification Report issued.
3	CMD(OG)	5	188	104	292	Selection over. PVR issued. Some posts are to be advertised through DAVP.

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4	Barber	2	-	51	51	Selection over. PVR issued.
5	PTI	1	1	14	15	Selection over.PVR issued.
6.	Electrician/SS	2	16	58	74	Selection over. PVR issued. Some posts are to be advertised through DAVP.
7	LDC	2	80	384	464	Written test over. Evaluation and Interview not yet done. Posts are to be again advertised through DAVP.
8	Store Keeper	1	40	360	400	Written test not yet conducted due to stay by CAT. Posts are to be advertised again through DAVP.
9	Cook	3	-	106	106	Selection over. P.V.R. under issue.
10	CM-II/T(Chem.)	2	8	108	116	Written test not conducted because of stay of CAT.Posts are again to be advertised through DAVP.
11	CM-II/T(Mech.)	1	4	33	37	Written test not conducted because of stay of CAT.Posts again are to be advertised through DAVP.

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12 DBW(SS)

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3600

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Written test  
not conducted  
because of  
stay of  
CAT. Posts are  
again to be  
advertised  
through DAVP.

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From the above it is clear that in case of Fitter General/SS, Store Keeper, CM-II/T(Chem.), CM-II/T(Mech.) and DBW (SS), written test has not been conducted and it has been stated that the posts are to be advertised again through the Directorate of Advertising and Visual Publicity. In case of these posts the applicants can have no grievance because when the posts are again advertised through Directorate of Advertising and Visual Publicity, the applicants can make their applications for the post. It is however seen that in case of these posts for which, according to the respondents, further advertisement will be made, even by getting the names from Employment Exchange and by direct applications, they have received very large number of applications. For example, for 50 posts of Danger Building Worker/SS the respondents have received 3911 applications. But in any case since the respondents have stated that they are going to re-advertise these posts again, no further orders with regard to these posts are necessary. This leaves us with the posts of Dhobi, Barber, PTI and Cook in which selection is over and Police Verification Report has either been issued or under issue. In respect of these posts, we see that for two posts of Dhobi there were 36 applications, for two posts of Barber there were 51 applicants, for 1 post of PTI there were 15 applicants, and for 3 posts of Cook there were 106 applications. Considering the number of vacancies available

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in these posts, the number of applications which have been received cannot be called inadequate. The applicants have also not stated in their Original Application as to for which posts they were intending to apply if they had got the notice earlier. Subsequently, the applicants have filed an affidavit in which they have stated that applicant nos. 1 and 2 are eligible for the post of CM-II/T(Chem.), applicant no.3 for the post of DBW/SS, applicant nos. 6 to 10 and 11 for the posts of LDC, DBW, Store Keeper, etc. Some of these posts are going to be advertised again and therefore, as earlier mentioned the applicants can apply for these posts. So far as these four categories of posts of Dhobi, Barber, PTI and Cook where selection is over, the number of applications before the respondents were sufficiently large in number for the purpose of making a fair selection. There are three other categories of posts namely CMD(OG), Electrician/SS and LDC. The respondents in their tabular statement have pointed out that for CMD(OG) selection is over, PVR has been issued and some posts are to be advertised again through DAVP. For Electrician/SS the position is the same. Selection is over, PVR has been issued and some posts are to be advertised again through DAVP. For LDC it has been stated that the written test is over, evaluation/interview has not yet been done and some posts are to be advertised again through DAVP. In respect of these three posts also once the posts are advertised again through DAVP, the applicants would be entitled to apply.

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8. Learned counsel for the petitioners has relied on the decision of the Hon'ble Supreme Court in the case of **Excise Superintendent, Malkapatnama, Krishna District, A.P. v. K.B.N.Visweswara Rao and others (supra)** and also the decision in the of **Sushanta Kumar Kar** decided

by the Hon'ble High Court of Orissa, to press his point that the selection process for the posts where the selection is over either in full or in part for some of the vacancies should be quashed and the posts are to be re-notified. Besides relying on the above two decisions of the learned counsel for the petitioners has also based his argument on the O.M. dated 18.5.1998 which is at Annexure-2. In this O.M. dated 18.5.1998 it has been directed that the recruiting authority may notify the vacancies in the Employment News keeping in view administrative and budgetary convenience. We have also noted that in the cases where selection is already over for all the vacancies or for some of the vacancies, the number of candidates under consideration for each category was quite large compared to the number of vacancies. It is also to be noted that the respondents have pointed out that they follow a policy of providing jobs to displaced persons. Apparently there is no scheme for providing jobs to displaced persons. But in the Employment Notice Nos. 1 and 2 of 1998 it has been mentioned that age limit is relaxable by 10 years for land displaced persons of Ordnance Factory, Badmal. From this it is clear that preference is being shown with regard to age so far as land displaced persons are concerned. From this point of view, calling for names from all the Employment Exchanges in Balangir district cannot be found fault with. The notification of the vacancies on the Notice Boards has also proved effective because in many cases very large number of applications have been received directly by respondent no.3 presumably through notification on the Notice Board. In consideration

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of the above, we hold that in respect of posts where the respondents are going to advertise the vacancies wholly or for some of the posts through the Directorate of Advertising and Visual Publicity, they would be following the Office Memorandum dated 18.5.1998 and in respect of vacancies for which selection has already been made either for all the posts or for some of the posts, the number of persons under consideration being very large in number compared to the vacancies, no case is made out for quashing this selection.

9. It is also to be noted that the applicants in their affidavit have mentioned that some of them are eligible for the posts of CM-II/T(Chem.), Danger Building Worker, L.D.C. and Store Keeper. In respect of all these four categories of posts CM-II/T(Chem.), Danger Building Worker, L.D.C. and Store Keeper, the respondents have stated that they are going to readvertise the posts through Directorate of Advertising and Visual Publicity. In view of this, once these posts are advertised through DAVP, the applicants can apply and they can have no grievance. In consideration of this, as per the endorsement of the respondents in the last column of the tabular statement with the memo filed by the learned Senior Standing Counsel for the respondents, we direct the respondents that in terms of the endorsement in the last column some of the posts as mentioned in the tabular statement may be readvertised through Directorate of Advertising and Visual Publicity as mentioned by the respondents. The applicants are free to apply for the same.

10. The Original Application is disposed of with the above observation and direction. No costs. The interim order stands vacated.

(G.NARASIMHAM)

(SOMNATH SOM)

\* MEMBER (JUDICIAL)

VICE-CHAIRMAN

6.7.99