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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.698 of 1998
CUTTACK THIS THE 29th DAY OF June , 2001

Baman Charan Jena and others 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)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM
VICE-CHAIRMAN
24.6.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 698 of 1998
CUTTACK THIS THE 29TH DAY OF JUNE, 2001

CORAM :

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

.....

1. Baman Charan Jena,
Aged about 32 years,
S/o Late Bhikari Jena
Village/PO. Retang, PS. Jatni,
District. Khurda
 2. Kailash Chandra Jena
Age~~d~~ about 32 years,
S/o- Late Jagabandhu Jena ,
Vill/PO. Kudiari, PS. Jatni
Dist. Khurda
 3. Luson Kumar Ray
Aged about 24 years
S/o- Sri Gagan Bihari Paikaray,
Village/PO. Kudiari, PS-Jatni,
District. Khurda
 4. Krustna Chandra Dash
Aged about 33 years
S/o Jogendra Dash
At. Tirapada, Po. Kothapatna
PS. Baliana, Dist. Khurda
 5. Ramesh Chandra Mohapatra
Aged about 26 years
S/o Late Birabara Mohapatra
Vill/PO-Kudiari, PS- Jatni
District. Khurda
 6. Saroj Kumar Samantray
Aged about 27 years
S/o- Govinda Chandra Samantaray
Village/PO-Mendasala
PS. Chandaka, Dist; Khurda
-Petitioners

By the Advocate(s)

M/s Srikanta Kr. Sahoo
M. Mohapatra
S. Mishra

- VERSUS -

1. Union of India
Represented through its General Manager
South Eastern Rly, Garden Reach, Calcutta, West Bengal.

Contd.....

2. Divisional Railway Manager (D.R.M.)
South Eastern Railway, Khurda Road Division,
At/PO/PS Jatni, Dist-Khurda
3. Senior Divisional Personnel Officer
S.E. Railway, Khurda Road Division
D.R.M. Office, At/PO/PS. Jatni
Dist-Khurda
4. Divisional Personnel Officer,
S.E. Railway, Khurda Road Division,
At/PO/PS. Jatni Respondents

By the Advocate (s)

Mr. B.K. Bal

J. J. ms.

P.T.O.

SOMNATH SOM, VICE-CHAIRMAN: In this original application six applicants have prayed for a declaration that they are eligible to be appointed in Group 'D' posts in Indian Railways and also for a direction to the respondents to appoint them in Group 'D' posts from the date persons similarly situated like the applicants have been absorbed. They have also asked for financial and service benefits.

2. The case of the applicants is that they were working as Commission Bearers in Divisional Manager's Staff Canteen at Khurda Road from 1986 to 1990. In token of such engagement they have been issued working days certificates by the Secretary of the staff canteen from time to time. Railway Authorities took a decision that quasi administrative staff i.e staff employed in recognised Railway Institutes, staff canteen, Cooperative Stores etc, can be considered for employment in Group 'D' posts in Departments where no casual labour/substitutes exist. In letter dated 9.1.94 (Annexure-1) applications from such staff who have completed 5 years of service as on 1.1.94 were called for. It was also provided in this notice that along with their applications candidates must furnish certain documents one of which was certificate in support of working number of days signed by respective Secretaries/Managers under whom they had worked. The applicants have stated that as they had completed 5 years of service as Commission Bearers they applied for such appointment in Group 'D' posts. In letter dated 10.11.95 (Annexure-2) 16 persons were called for a screening test on 28.11.95. Even though applicants were eligible for consideration they were not called to the screening test and their names were not there at Annexure-2 but no screening was done and again in

letter dated 30.11.95 (Annexure-3) applications were invited through proper channel by 18.12.95. It was mentioned in this notice at Annexure-3 that those candidates who had been called for screening on 28.11.95 in order at Annexure-2 need not apply again. In view of this the applicants did not furnish fresh applications in pursuance of the notice at Annexure-3. It is stated that in order dated 25.3.96 (Annexure-4) 23 persons were called for screening to be held on 8.4.96. In this list of 23 persons names of applicants number 1 and 2 were included. But no screening was held on 8.4.96. A further notice was issued in letter dated 27.6.97 (Annexure-5) in which 18 persons were called for screening to be held on 3.7.97. In this list names of the six applicants before us were not included. The grievance of the applicants is that similarly situated persons were called for screening but they were discriminated against. These six applicants along with some others who are not before us filed a representation dated 1.7.97 (Annexure-6) but without any favourable result. In the context of the above facts the applicants have come up with the prayers referred to earlier on the grounds urged in the original application.

3. Respondents in their counter have taken the stand that in response to the notice dated 6.1.94 (Annexure-1) and 30.11.95 (Annexure-3) five of the applicants did apply. No application was received from applicant No.5. He filed a representation on 10.3.97 stating therein that he had submitted his application. Applicants in this case have not filed any rejoinder and the averment of the respondents that the applicant No.5 did not apply has not been denied. In view of this the original application is dismissed at the outset so far as the applicant No.5 is concerned.

S. J. D.

4. It is not necessary to refer to all the averments made by the respondents in their counter because these will be referred to while considering the submissions made by Learned Counsel of both sides. It is only necessary to note that the stand of the respondents is that the working certificates filed by the five applicants were found on enquiry to be doubtful therefore they were not called for screening.

5. No rejoinder has been filed in this case.

6. We have heard Shri S.K. Sahoo Learned Counsel for the applicant and Shri B.K. Bal Learned Additional Standing Counsel for the respondents and have perused the record. Learned Counsel for the petitioner has filed written note of submission and we have perused the same.

7. The admitted position is that departmental authorities initiated a process of appointing quasi administrative staff in Group 'D' posts in Departments were no casual labour/substitutes exist. Applicants 1 to 4 and 6 applied in response to the notices issued from time to time but they were not called to appear at the screening test. Originally it was provided that quasi permanent staff with 5 years of service as on 1.1.94 would be eligible for consideration. Respondents have pointed out that later on in pursuance of CPOs letter in establishment serial No. 32/94 (Annexure R/2) 5 years was reduced to 3 years. Respondents have stated that as many fake applications were filed the Chief PI and SRWI were directed to examine each case with reference to records maintained in the offices where the applicants claimed to have worked according to their work certificates. On enquiry it was found that the claims of the applicants 1 to 4 and 6 are not free from doubt. It is therefore necessary to referred to this

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report of Chief PI and SRWI which is at Annexure R/I to see if the respondents have correctly held that the work certificate of the five applicants are not genuine. For this purpose case of each of the applicants has to be examined separately.

8. So far as applicant No.1 Baman Chandra Jena is concerned it has been mentioned in this report that on verification of the proceedings register of the Cooperative Society it was seen that his name has been recorded in the proceedings register for the meetings held on 19.12.85, 25.2.86 and 31.10.86 for engagement as commission bearer with some others name but the name has been recorded in a different handwriting and the name of this applicant seems to be interpolated. On verification of the attendance register maintained for casual staff it was seen that the applicant's name does not find place in the attendance register for the period. Secretary of the Canteen Shri J. Patnaik and Shri J.N. Champaty have issued the certificate for the period 19.12.85 to 31.3.90 and from 7.9.89 to 31.3.90 respectively. But Shri J. Patnaik was not holding any office for the period from 17.9.89 to 31.3.90. On the above grounds respondents have held that the work certificate produced by applicant No.1 is not a genuine one. In view of the obvious discrepancies noted above we find no illegality in the Respondents holding that the work certificate submitted by the applicant No.1 is not genuine.

9. *J. J. J.* Applicant No.2 Kailash Chandra Jena has filed work certificate for the period from 7.9.89 to 31.3.90 and from 19.12.85 to 31.3.90. In the report at Annexure R/1 it has been mentioned that the name of K.C. Jena has been recorded in the

proceedings of the Board of Directors meeting held on 19.12.95, 28.2.86 and 30.10.86 but his name has been recorded in different ink and handwriting is different. As such in this report it has been stated that the name of applicant No.2 has been interpolated. His name also does not appear in the attendance register ~~meant~~ for casual staff. during the relevant period. In view of this we find no illegality in the ~~absence of~~ ^{action} ~~J. V. M.~~ respondents holding that work certificate given by applicant No.2 is not genuine.

10. Applicant No.3 is Lusen Kumar Ray. From the report at Annexure R/1 it appears that he submitted work certificate for the period from 7.9.89 to 31.3.90. Name of this applicant does not appear either in the proceeding register or in the attendance register and there is no record showing engagement of this applicant. His candidature is therefore held to have been rightly rejected.

11. Applicant No.4 Krushna Chandra Dash had submitted work certificate from 17.9.89 to 31.3.90. From the report at Annexure R/1 it appears that his name has been recorded in the proceedings of the Board of Directors meeting held on 7.8.86 but his name has been recorded in different ink and hand writing is also different. In the report at Annexure R/1 it has been held that this is a case of interpolation. His name also does not appear in the attendance register for casual staff. In view of this we hold that the candidature of the No.2 has rightly been rejected as the work certificate was rightly held to be not genuine.

J. V. M.

12. As regards Saroj Kumar Samantray applicant No.6 has submitted two work certificate from 20.1.86 to 6.9.89 and from 7.9.89 to 31.3.90. On verification it was found that his name was recorded in the proceeding of the Board of Directors meetings held on 20.1.86, 21.3.86, 25.9.86, 5.12.86, 20.9.88, 25.7.89, 16.11.89 and 21.2.90 but here also the name of the applicant has been written in different handwriting and in different ink. The two officers enquiring into the matter found that the name has been interpolated.. His name also does not appear in the Attendance Register. Therefore this is also a case of submission of an wrong working certificate.

13. Respondents have stated in their counter that no payment voucher in respect of engagement of these applicants were available in the canteen records. Obviously if the applicants had worked for the period claimed by them then they must have been paid and in a Cooperative Society payments have to be documented for the purpose of audit. In view of the above we find no infirmity in the action of the departmental authorities in not calling these five applicants to the screening test.

14. In view of our above discussion the original application is held to be without any merit and is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN