

7
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 285 OF 1999
Cuttack, this the 18th day of August, 2000.

Kishore Kumar Routray 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
(SOMNATH SOM)
VICE-CHAIRMAN

18.8.2000

8
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 285 OF 1999
Cuttack, this the 18th day of August, 2000

CORAM:

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

.....
Kishore Kumar Routray, aged about 34 years, son of late
P.C.Routray, at present working as Reservation Clerk, south
Eastern Railway, Khurda Applicant

Advocates for applicant-M/s D.R.Patnaik
M.K.Khuntia
A.K.Routray
N.S.Panda

vrs.

1. Union of India, represented by its General Manager,
south Eastern Railway, Calcutta, Garden Reach,
Calcutta.
2. Divisional Railway Manager (P), Khurda Road, Khurda,
At/PO/Dist.Khurda.
3. Senior Divisional Personnel Officer, S.E.Railway,
Khurda, At/PO/Dist.Khurda.

..... Respondents

Advocate for respondents-Mr.D.N.Misra
S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

✓ Som.
In this petition the applicant has prayed
for a direction to the respondents to regularise
his services against the post of Reservation Clerk and to
quash the notification dated 9.6.1999 (Annexure-4) and
direct the respondents to conduct "interview (written
test)" afresh.

2. Shortly stated, the applicant's case is
that prior to his promotion as Senior Goods Clerk he was
manning the Reservation Counter at Khurda Road from 1986 to

a

1990. As a Goods Clerk in the pay scale of Rs.975-1540/- he was transferred on his own request and posted as Goods Clerk at Bhubaneswar in his existing pay and grade. According to the applicant, the post of Goods Clerk was abolished in 1993 and consequent upon such abolition he was absorbed as Reservation Clerk and posted at Bhubaneswar, but he was allowed to discharge extra reservation work in the Reservation Counter. He has stated that he has been continuously working as Reservation Clerk since 1993. Because of such continuous working, according to him, he has acquired a valuable right of regularisation against the vacancy. He has stated that according to the Railway Board's circular, if an incumbent works for five years against a post he should be regularised without holding any interview. For filling up of the post of Reservation Clerk in the scale of Rs.4500-7000/- the petitioner appeared at the written test in which, according to him, he did very well. But in the list of candidates who had cleared the written test and had been empanelled for appearing at viva voce, his name does not appear. In view of the above facts he has come up with the prayers referred to earlier.

3. The respondents have pointed out that while the applicant was working as Junior Goods Clerk at Khurda Road, he was transferred to Bhubaneswar as Goods Clerk and thereafter was promoted to the post of Senior Booking Clerk in the pay scale of Rs.1200-2040/- with effect from 1.3.1993 in the process of restructuring and was posted under Station Master, Bhubaneswar in order dated 10.8.1993 and he is still continuing in that post. While continuing as Senior Booking Clerk, he appeared at a written test for selection for the post of Enquiry

JJM

10
Clerk-cum-Reservation Clerk-III in the pay scale of Rs.4500-7000/- on 9.1.1999. He took the written test but could not come out successful and therefore was not called for the viva voce for which persons were empanelled at Annexure-A-4/1. As regards the applicant's averment that one B.C.Mohanty who did not appear at the written examination was empanelled for the viva voce test, the respondents have pointed out that the name of B.C.Mohanty, Junior Booking Clerk was wrongly included in the list of candidates who were called to viva voce. The correct name was Biswajit Mohanty, Junior Booking Clerk who had come out successful in the written test. But it was wrongly mentioned as B.C.Mohanty which was immediately corrected. The respondents have pointed out that the applicant is holding the post of Senior Booking Clerk in the revised scale of Rs.4000-6000/- and for the post of Enquiry-cum-Reservation Clerk the selection process is controlled by headquarters and only through the process of examination the post is filled up. The respondents have also denied that the application was ever allowed to work as Enquiry-cum-Reservation Clerk. He never got the salary of Enquiry-cum-Reservation Clerk in the pay scale of Rs.4500-7000/-. On the above grounds, they have opposed the prayers of the applicant.

J.S.M.
4. We have heard Shri D.R.Patnaik, the learned counsel for the petitioner and Shri D.N.Mishra, the learned Standing Counsel for the respondents and have also perused the records.

5. The applicant's prayers are based on his assertion that he has been working from 1993 for six years as Enquiry-cum-Reservation Clerk. This has been

denied by the respondents in their counter. The applicant has not produced any document in support of his contention that from 1993 he has been working as Enquiry-cum-Reservation Clerk which is in a higher scale of pay than the pay scale of Senior Booking Clerk, the post held by him. The respondents have pointed out and the applicant has not denied this by filing any rejoinder that the post of Enquiry-cum-Reservation Clerk is controlled by headquarters and is filled up by process of written examination and viva voce. The applicant has appeared at the written examination and has not been successful. In view of this, he has rightly not been included in the panel of names of persons to be called to the viva voce. The respondents have explained how the name of B.C. Mohanty was wrongly included in place of Biswajit Mohanty who had appeared at the written test and come out successful. As the applicant has not been able to produce any evidence in support of his contention that he has been working as Enquiry-cum-Reservation Clerk for six years, his prayer for regularisation in the post of Enquiry-cum-Reservation Clerk cannot be accepted. He has also not given a copy of the so called circular on the basis of which after five years working in a post the incumbent has to be regularised. In view of the above, this prayer of the applicant is rejected.

6. As regards the second prayer of the applicant for conducting interview (written test) afresh, this is absolutely without any merit. Apart from his assertion that he has done well in the written test, he has not challenged the written test in any way. As earlier mentioned the case of B.C. Mohanty has been effectively explained by the respondents. This prayer is also therefore

J.S.M.

held to be without any merit and is rejected.

7. In the result, therefore, the Original Application is dismissed. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN 19/8/2000

August 18, 2000/AN/PS