

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO. 354 OF 1999
Cuttack this the 10th day of Oct. /2000

Biren Kumar Pradhan ... 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

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 354 OF 1999

Cuttack this the 18th day of October/2000

SJM
CORAM:

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

...

Biren Kumar Pradhan
S/o. Rohin Pradhan
Q. No. 33308 (Type-III)
IVth Phase, Ordnance Factory
Establishment, Badamal, Bolangir

...

Applicant

M/s. D.P. Dhal
D.K. Das, K.K. Das
S.K. Tripathy,
P.Uttarkabat

By the Advocates

-VERSUS-

1. Union of India represented through it's Secretary, Ministry of Defence, New Delhi
2. Director General, Ordnance Factory, 10-A, Auckland
3. General Manager, Ordnance Factory Estate, Badamal, Bolangir

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Respondents

Mr. S.B. Jena
Addl. Standing Counsel
(Central)

By the Advocates

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN : In this Application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to Respondents to give/promotion to the post of Supervisor (Non-technical) in terms of S.R.O. Respondents have filed their counter opposing the prayer of the applicant.

SJM
Applicant has also filed rejoinder to the counter.

2. For the purpose of considering this Application it is not necessary to go into too many facts of this case. The admitted position is that in the Ordnance Factory, Badamal there are nine posts of Supervisor (Non-technical) and the applicant's case is

that he is entitled to be promoted to the post of Supervisor (Non-technical). But his representation for promotion to that post has been rejected in order dated 7.9.1998 (Annexure-13).

In the context of the above he has come up in this Application with the prayer referred to earlier.

3. Respondents in their counter have stated the Government of India's letter dated 23.2.1995 clearly lays down that recruitment to the post of Supervisor (Non-technical) will be need based. Respondents have further stated that at present nine posts of Supervisor (Non-technical) have not been filled up and therefore, the applicant cannot claim to be promoted to the post of Supervisor (Non-technical). In the pleadings as well as during hearing of the Original Application there has been lot of discussion as to whether the applicant, who is Fire Engine Driver, Gr.II is entitled to be considered for promotion to the post of Supervisor (Non-technical). Even though the respondents in their counter had originally taken a stand that Fire Engine Driver, Gr.II is not entitled to promotion to Supervisor (Non-technical) there being an intermediary promotion of Fire Engine Driver, Gr.I. In course of hearing it has been submitted by Shri Jena, the learned Addl. Standing Counsel for the Respondents that on a further check up of the records and instructions the Respondents are of the view that Fire Engine Driver Gr.II is also entitled to be considered for promotion to the post of Supervisor (Non-technical) subject to his obtaining the necessary technical qualification as mentioned in the S.R.O. It is submitted by Shri Acharya, the learned counsel for the petitioner and this has also been mentioned in the pleadings that the applicant has acquired the necessary training and qualification for promotion to the

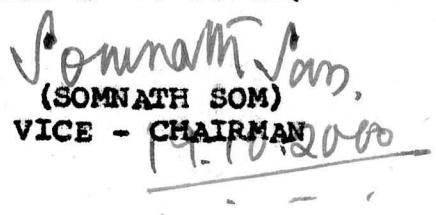
post of Supervisor (Non-technical). Law is well settled that an employee has only a right to be considered for promotion, but he cannot claim promotion as a matter of right. It is open for the departmental authorities not to fill up a post and that matter is not justiciable before the Tribunal. In view of this the prayer of the applicant for issue of direction to Respondents to give him promotion to the post of Supervisor (Non-technical) straightforward is held to be without any merit and the same is, therefore, rejected. However, it is to be noted that according to submissions of the Respondents themselves at the Bar the applicant is eligible and entitled to be considered for promotion to the post of Supervisor (Non-technical) from his present post, i.e. Fire Engine Driver, Gr.II. In view of this while disposing of this Original Application we direct the Respondents that while filling up of the post of Supervisor (Non-technical) the case of the applicant should be considered strictly in terms of the rules and instructions as well as in the light of the submissions made on behalf of the Respondents at the Bar in course of hearing of this Original Application.

In course of hearing certain other controversy has been raised with regard to Feeder Grades from which the post of Supervisor (Non-technical) (O.T.S.) is to be filled up. In view of our above order the learned counsel for the petitioner does not press the above points and therefore, it is not necessary for us to pass any order with regard to this point in the pleading.

Original Application is disposed of in terms of observation made above, but without any order as to costs.


(G. NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//


(SOMNATH SOM)
VICE - CHAIRMAN
14/10/2000