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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 48 OF 1999
Cuttack this the 23rd day of September, 1999

Rajan Sankar 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
23.9.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.48 OF 1999
Cuttack this the 23rd day of September, 1999

CORAM:

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

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Rajan Sankar Pradhan,
aged about 22 years,
S/o. Sanyasi Pradhan
Resident of Village: Panjibag
PO: Panjibag, Via: Sunhat
Dist: Balasore

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Applicant

By the Advocates : M/s.R.N.Nayak-2
K.Sahoo
B.Pradhan
B.Barik

-Versus-

1. Union of India represented through its
Secretary, Ministry of Defence,
New Delhi
2. Director, Interim Test Range,
At : Chandipur
Dist: Balasore
3. Director General (R & D)
Organisation, B.Wing, Sena Bhavan,
New Delhi-110001
4. Director (Personal)
B. Wing, Sena Bhavan,
Defence Deptt.,
New Delhi-110001

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Respondents

J. Som.
By the Advocates : Mr.S.Behera,
Addl.Standing Counsel
(Central)

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ORDER

MR.SOMNATHSOM, VICE-CHAIRMAN:: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for canceling the interview held on 4.2.1999 and to conduct a fresh interview.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case except to note that the petitioner was an applicant for the post of Fireman in Interim Test Range, Chandipur in response to an advertisement vide Annexure-6. In the advertisement it was indicated that the job involves strenuous duty and minimum physical fitness as indicated in the advertisement was mandatory. On receipt of the application the departmental authorities called the applicant and others to appear at physical test. The applicant's case is that he was expected to run 1500 mts. within five minutes. When the race started 99 candidates were present. His case is that there was no space for each of them to run on independent tracks and therefore, while running the applicant was given a push by a person immediately behind him and he fell down during the course of running. He immediately requested the authorities to give him another chance, but that was refused. The applicant has stated that the adequate arrangements were not made by the departmental authorities to make the candidates run in an unhindered fashion. He has also stated that along with the applications the candidates were not asked to produce photographs and therefore, many persons got themselves impersonated in the run. On these grounds the applicant

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has come up in this application with the prayers referred to earlier.

3. By way of interim relief he had prayed that the respondents be directed to give another chance to the applicant to participate in the test for the post of Fireman. On the date of admission of this Original Application on 10.2.1999, on the submissions of the applicant that another test was going to be held on 11.2.1999, respondents were directed to allow the applicant to appear in that run once again.

4. Respondents in their counter have stated that adequate arrangements were made for the run and the candidates, who were called for the test on 4.2.1999 were divided into convenient batches. The applicant could not complete the race in the prescribed time and wanted another chance which was denied by the Chairman of the Selection Board. But again, as per the direction of the Tribunal, the applicant once again was given a chance to take part in the run on 15.2.1999 and in that race also the applicant failed to complete the race in the prescribed time and therefore, he was disqualified from taking the written and viva voce examination. It is further stated that a total number of 1200 candidates appeared for the test for a period of five days and except the applicant, no one has made any complaint about inadequacy of arrangement. On the above grounds the respondents have opposed the prayer of the applicant.

5. We have heard Shri R.N.Naik, learned counsel for the petitioner and Shri S.Behera, learned Addl.Standing Counsel appearing for the respondents. Also perused the records. Learned counsel for the petitioner

J. Sam.


has also filed a rejoinder which has also been taken note of, but the new facts as averred by the applicant have been ignored because of the fact that respondents have not got an opportunity either to controvert the new facts or to confirm the same.

6. On perusal of the record, it is seen that in the advertisement itself it was mentioned that the work of Fireman involves strenuous nature of work and physical fitness is mandatory. As a matter of fact every candidate was asked to file along with the application ~~medical~~ certificate indicating minimum physical attributes. In view of this, action of the departmental authorities to subject the candidates to run 1500 mts. within 5 minutes ^{fault} can be ~~found~~/with, because in the process of selection of many other posts like Constables etc., the candidates are made to run for a certain distance within a certain period of time. The contention of the learned counsel for the petitioner that this nature of physical test was not prescribed in the advertisement is therefore held to be without any merit and the same is therefore, rejected.

Moreover, the applicant having participated in the physical test is now estopped ^{from} /questioning about the holding of the test. The next contention of the learned counsel for the petitioner was that adequate arrangements were not made as 99 candidates were made to take the run at a time and because of this, he fell down for the first time and could not complete the race. It is not as though every applicant should have been provided with an individual track for running. As a matter of fact, where large number of persons participated in a ~~run~~run, no

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individual track is provided for each candidate and therefore, this cannot be a ground for questioning the manner of holding the test. As regards the applicant, he has come up with a story that he fell down on being pushed by the person immediately behind him. The respondents have denied the same and have stated that in the first test of the run on 4.3.1999 he was not able to complete the run within the specified time period of five minutes. Whatever it may be, even granting for the sake of argument the story of the applicant that he was pushed and he fell down, the departmental authorities have allowed him another chance to complete the race on 15.2.1999 and ~~that~~ the applicant has no grievance as regards the arrangement so far as on run on 15.2.1999 is concerned. The respondents have stated that on that day also the applicant could not complete the run within the specified time period. It is submitted by the petitioner that he had completed the run within the specified time period, but the departmental authorities intentionally have disqualified him since he had approached the Tribunal and got a second chance to participate in the run. Besides this bald assertion to that effect, ~~by~~ the learned counsel for the petitioner has not produced any evidence in support of this allegation. Onus lies on the applicant to prove that he has completed the run within the specified time and in the absence of any such material in support of his contention, we are unable to accept the contention of the learned counsel for the petitioner.

 It is submitted by the learned counsel for the

petitioner that he should be allowed one more chance totake the run and to judge the time taken by him, a special person should be deputed. This prayer is going beyond the prayer in the Original Application. By virtue of the interim order the applicant having given another chance as a special case and according to respondents, he ^{not} ⁱⁿ having /been able to qualify/ the run, we are of the view that the applicant has not been able to make out a case for any of the relief prayed for in this application. The O.A., is held to be without any merit and the same is therefore, dismissed, but without any order as to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
23.9.99