

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

O.A.NO.472 OF 1999

Cuttack, this the 30th day of March, 2004

Gayan Behari Barik Applicant

Vrs.

Commissioner, Kendriya Vidyalaya Sangathan and others
..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *AD*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *74*

Subh
(M.R.MOHANTY)
MEMBER (JUDICIAL)

30/03/04

Subh
(B.N. SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND

HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

.....
Gagan Bihari Naik, Group D (Sweeper), Kendriya
Vidyalaya, aged about 33 years, son of Bhikari Naik,
At-Khurda Road, P.O.Jatni, P.S. Jatni, Dist.Khurda

.....Applicant

Advocates for the applicant - M/s S.Mishra-I
S.N.Mishra
R.C.Prahraj
B.Dash
B.N.Mishra

Vrs.

1. Commissioner, Kendriya Vidyalaya Sangathan, 18
Institutional Area, Saheed Jeet Singh Marg, New
Delhi 16
2. Assistant Commissioner, Kendriya Vidyalaya
Sangathan, Regional Office, H.P-7, B.A.A.Locality,
Laxminagar, Bhubaneswar 6, District Khurda.
3. Director of S.C. &S.T., 575, Saheed Nagar, At/PO/PS
Bhubaneswar, Dist.Khurda.
4. Principal, Kendriya Vidyalaya, Khurda Road, At/PO/PS
Jatni, Dist.Khurda
5. Principal, Kendriya Vidyalaya, Mancheswar, At/PO/PS
Mancheswar, Dist.Khurda

...Respondents

Advocate for the Respondents - Mr.Ashok Mohanty

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SHRI B.N.SOM, VICE!CHAIRMAN

This Original Application has been filed by
Shri Gagan Bihari Naik challenging the action of the
Respondents for not considering his case for promotion

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to the grade of Lower Division Clerk ("L.D.C.", for short) or Laboratory Attendant ("L.A." for short) and for non-payment of his dues.

2. The case of the applicant is that after being appointed as Sweeper (Group D) with effect from 5.2.1987, he passed Matriculation Examination and obtained training in English Typewriting and Shorthand while in service. He had represented several times to Respondent No.2 to consider his case for promotion to the post of L.D.C. in consideration of his educational qualification and the fact that he is a member of Scheduled Caste. He was given verbal assurance by the said Respondent in 1994. In the same year the applicant was called to appear in a written test for promotion to the grade of L.D.C. In the meantime, a disciplinary case was also initiated against him and the charge memo was served on him. He on his turn had filed an FIR on 16.3.1995 before the Officer-In-Charge, G.R.P.S. He was suspended from duty with effect from 20.3.1995. By another memo dated 18.9.1995 a fresh charge memo was issued against him which resulted in ^{on him to} inflicting punishment of stoppage of one increment for a period of one year. Later on, by order of Respondent No.4, the period spent on suspension was treated as duty and he was paid full pay and allowances for the period. The applicant is, therefore, apprehensive that because of the animosity of the Respondents towards him, he was not considered for promotion to the post of L.D.C. or L.A. whereas persons junior to him

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were promoted to these grades. He had represented against the said inaction of the authorities, but without any success.

3. The Respondents have contested the Original Application on the ground of limitation that his case for promotion to the grade of LDC for which he had appeared in an examination in 1994 could not be agitated before the Tribunal in the year 1999. On the ground of limitation alone, they have prayed for rejection of the Original Application. On the merits of the case, they have submitted that the fact of the matter is that he did not fare well in the written test for promotion to the post of LDC, as a result of which he could not be considered for promotion to that grade. They have further stated that the promotion prospects of Group D consist of promotion from the post of L.A. which is a Group D post and thereafter to the post of LDC (Group C) for which certain percentage of posts is reserved. With regard to the allegation of the applicant that some officials junior to him in Group D cadre had been promoted to the grade of L.A., the Respondentes have submitted that those cases pertained to the period prior to 8.1.1998 when the said employees being senior in the respective Kendriya Vidyalaya were promoted against the vacancies available in those Vidyalayas. They have, therefore, submitted that the applicant's case for promotion will be considered in accordance with the Recruitment Rules as and when his turn comes according to his position in the seniority list.

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4. We have heard the learned counsel for both parties and have perused the records placed before us. No rejoinder has been filed by the applicant to the counter.

5. Having heard the rival contentions and having considered the facts of the case, we see no merit in the Original Application which is accordingly rejected. We, however, hope and trust that the case of the applicant will be considered for promotion to the grade of Laboratory Attendant in terms of the Recruitment Rules as and when vacancy will arise for this purpose.

No costs.

(M.R.MOHANTY)

MEMBER (JUDICIAL)

Yerai
30/03/04

Arka
(B.N.SOM)

VICE-CHAIRMAN

an/ps