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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. NO. 663 of 1999
Cuttack, this the 07th day of May, 2004.

Susanta Kumar Rath. Applicant.
- Versus-
Union of India & Others. Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? 73
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? 73


(E.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.NO. 663 OF 1999.

Present: Hon'ble Mr. B.N. Som, Vice-Chairman
Hon'ble Mr. Manoranjan Mohanty, Member (Judl.)

...

Susanta Kumar Rath. ... Applicant.

-Vrs.-

Union of India & Ors. ... Respondents.

For the Applicant : Mr. Akhaya Ku. Mishra, Counsel.


For the Respondents: Mr. S. B. Jena, Counsel.

Date of decision: 07.05.2004

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL);


In order to draw a panel, for filling-up of 10(ten) posts of Technician under the Doordarshan Kendra, the authorities requested the local Employment Exchange on 01.07.1996 for sponsoring name of candidates. Out of ten posts; 1 was reserved for S.C.; 3 for S.T.; and 1 for OBC candidates. Rest five posts were kept un-reserved. After conducting the selection, the Respondents have drawn up a panel, wherein the name of the Applicant found place at Sl.No.8. It is not in dispute that the Applicant is a general category candidate. Four out of first five UR candidates were given offer of appointment and all of them joined in their posts. As the fifth vacancy



fell on promotion quota, candidate whose name appeared at Sl.No.5 was not given the offered. Accordingly, Sl.Nos. 5 to 8 of the panel of UR candidates were not given the appointment due to dearth of the vacancy/post and, subsequently the panel expired. As no order of appointment was issued in favour of the Applicant, by filing the present Original Application, on 24.12.1999 under Section 19 of the Administrative Tribunals Act, 1985, he has prayed for a direction (to the Respondents) to fillup the posts from the said 1997 panel/select list) instead of going for a fresh selection. Further it has been prayed, by the Applicant, that a direction be given (to the Respondents) to appoint the Applicant as a technician.

2. Respondents, by filing counter, have opposed the case of the Applicant by stating therein that, as the panel is no more available and as there are no vacancy, the prayer of the Applicant cannot be acceded to. Further, it has been prayed by the Respondents that a person has no right, even if he is selected, to claim appointment to a post, and, therefore, this Original Application needs to be dismissed.

3. We have heard learned counsel for the parties and perused the materials placed on record. Learned Counsel for the Applicant has argued that since the Applicant was selected and empanelled for appointment and that he has by this time, over-aged, he has a right to be appointed. Further it was argued by the learned Counsel for the



Applicant that as the Respondents after conducting interview, prepared the panel, the Respondents cannot go for any fresh recruitment without exhausting the panel. It is emphatically submitted by him that as per the guidelines under Annexure-11, the panel prepared by the Respondents is still valid and, therefore, the Respondents cannot and should not deny appointment/employment to the Applicant on the ground that the panel has become invalid. On the other hand, it was argued by the learned Counsel appearing for the Respondents that since there were ten posts with categorywise reservation, there was no scope for the Applicant to be appointed. It was argued by the learned Counsel appearing for the Respondents that no where it has been alleged by the Applicant that persons ranking below him has been given appointment and that law is well settled that merely because empanelment, a candidate has no vested right to be appointed and, therefore, the Applicant has no right or claim to claim for the same.

4. It is seen that even though the panel was prepared in the year 1997, the Applicant has come up in this case in the year 1999 and, therefore, at the time of admission question of maintainability of this O.A. was kept open. Neither of the parties have disclosed when the last candidate was given appointment. Therefore, in absence of that, it was rightly ordered to keep open the question of maintainability. Law is also well settled by now, that a person selected/empanelled has no vested right to claim appointment, unless otherwise any deviation

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is made in regard to appointment out of the panel. Respondents have clearly stated the position in their counter as to why appointment could not be given to the Applicant. Annexure-11 clearly states that there would be no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies. Since the declared vacancies exhausted, in this case as per the statistics given by the Respondents, there is no iota of doubt that the life of the panel is no more exist. Further it has been stated by the Respondents that since there was no ST candidates, they have initiated fresh recruitment in the year 1999.

5. In the above said premises, there is no escape from the irressistible conclusion that the Applicant has no case to get the reliefs claimed by him. That apart, this Original Application is clearly barred by Sec. 21 of the AT Act, 1985. In the result, this O.A. is dismissed. No costs.


(B.N. SOM)
VICE-CHAIRMAN


07/05/04
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)