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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

276
ORIGINAL APPLICATION NO. OF 2000
Cuttack this the ^{23rd} day of January/2004

Krushna Chandra Padhiary

Applicant(s)

VERSUS

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*

Filed
23/01/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. SOM
(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.276 OF 2000
Cuttack this the 23rd day of January/2004

CORAM:

THE HON'BLE MR. B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR. M.R. MOHANTY, MEMBER (JUDICIAL)

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Krushna Chandra Padhiary,
Safaiwala, Motor Transport Complex
I.N.S. Chilika, Dist - Khurda

...

Applicant

By the Advocates

Mr.D.P.Dhalasamant

-VERSUS-

1. Union of India represented through
Flag Officer Commanding in Chief,
Eastern Naval Command, Visakhapatnam,
Andhra Pradesh - 530 014
2. Commanding Officer, I.N.S., Chilika
Dist - Khurda
3. Assistant Logistic Officer, I.N.S.,
Chilika, Dist-Khurda

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Respondents

By the Advocates

Mr.B.Dash, A.S.C.

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ORDER

MR.B.N.SOM, VICE-CHAIRMAN: This Original Application, under Section 19 of the A.T.Act, 1985, has been filed by the applicant, Shri Krushna Chandra Padhiary seeking direction to be issued to Respondents to appoint him to the post of Driver although he has been put at Sl. No.3 in the select panel prepared by the Selection Committee for filling up two posts of Motor Driver in the Office of Respondent No.2.

2. The admitted facts of the case are that the applicant although recruited as Safaiwall in the Respondents' organisation had been working as motor

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transport driver since 1989. Then in 1995, although a trade test/interview took place on 25.10.1995 for filling up one post of M.T.Driver, Gr.II, he was not called for the test. He, therefore, carried the matter before this Tribunal in O.A.262/97; and on being directed by this Tribunal vide its order dated 30.9.1999(Annexure-1) he was called upon to appear in a trade test on 25.1.2000, but the Respondents did not select him for the appointment as driver, it is the allegation of the applicant, out of bias and prejudice on the part of the Respondents, they ignored the long years of experience that he had gained in the motor transport department/organisation.

3. The Respondents, by filing a detailed counter, have refuted the allegations made by the applicant and while opposing the prayer of the applicant, they have prayed for dismissal of this O.A.

4. We have heard Shri D.P.Dhalasamant, the learned counsel for the applicant and Shri B.Dash, learned Addl. Standing Counsel appearing on behalf of the Respondents and also perused the materials placed before us.

5. From the submissions made by the Respondents, we find the applicant was duly interviewed by a Selection Board consisting of five officers, headed by Commander of I.N.S., Chilika. The Interview Board had observed that the applicant was short of hearing. On the basis of performance, he secured 250 marks out of 3000, as a result of which he was placed at 3rd position in the reserve panel. It has also been submitted by the Respondents that the selection test was carried out for filling up of two

vacancies in M.T.Driver, Gr.II and the official in the select list would be offered appointment, if any one of the first two candidates failed to take up the assignment. The applicant, in his prayer has sought for direction to Respondents to appoint him as driver notwithstanding the fact that he occupied the 3rd position. We do not think that the applicant has got an indefeasible right to make such a claim. Under law he has got right to be considered for appointment and that right he had exercised in pursuance of the direction of this Tribunal in O.A.262/97 filed by him. We find from the records that as per the vacancy circular two posts were to be filled up, one belonging to S.T. category and one under general category. On the basis of merit the applicant had secured 250 marks as a general candidate whereas three other general candidates had secured 295(selected for the post), 275 and 258, respectively and the S.T. candidate 250 who has been selected against the S.T. vacancy; as a result of which the applicant's name was put at Sl.No.3 in the waiting list. Thus, on merit the applicant cannot claim appointment to the post of M.T. driver, Gr.II as there exists no right for the applicant to demand appointment.

In the circumstances, this O.A. is dismissed, being devoid of any merit. No costs.

Calcutt
23/01/54
(M.R. MOHANTY)
MEMBER (JUDICIAL)

Som
(B.N. SOM)
VICE-CHAIRMAN

BJY