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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

O.A.NO.294 OF 2000

Cuttack, this the 20th day of April, 2001

Bimalendu Mohanty and others

Applicants

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the 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
20.4.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 294 OF 2000
Cuttack, this the 20th day of April, 2001

CORAM:

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

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1. Bimalendu Mohanty, aged about 34 years, son of Rabi Narayan Mohanty, presently working as Sr. Section Engineer (Works) Construction, Chandrasekharpur, S.E. Railway, Bhubaneswar.
2. Aswini Kumar Behera, aged about 37 years, son of Gopabandhu Behera, presently working as Sr. Section Engineer (Works) C/o Dy. Chief Engineer (D-IV), S.E. Railway, Bhubaneswar.
3. Bobin Mohanty, aged about 35 years, son of Pramod Ch. Mohanty, presently working as Section Engineer (Designs), Construction, Chandrasekharpur, Bhubaneswar.
4. Umakanta Sahoo, aged about 34 years, s/o U.N. Sahoo presently working as Sr. Section Engineer (Works) C/o Dy. Chief Engineer (D-II), S.E. Railway, Bhubaneswar.
5. Sudhamaya Bajapayi, aged about 32 years, son of Chinmaya Prasad Mishra, presently working as Sr. Section Engineer (Works), C/o Dy. Chief Engineer (D-IV), S.E. Railway, Chandrasekharpur, Bhubaneswar

.....Applicants

Advocates for applicants - M/s A. Kanungo, S.R. Mishra,
B. Ray, M.K. Biswal

Vrs.

1. Union of India, represented through General Manager, S.E. Railway, Garden Reach, Calcutta.
2. Principal Chief Engineer, S.E. Railway, Garden Reach, Calcutta.

3. Chief Personnel Officer, S.E.Railway,
Garden Reach, Calcutta.
4. Chief Administrative Officer, S.E.Railway,
Chandrasekharapur, Bhubaneswar

....RESPONDENTS

Advocates for respondents - M/s B.Pal &
R.Ch.Rath

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O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application, the five petitioners have prayed for a direction to the respondents to publish the result of their written examination for inclusion of their names in the panel of selected candidates. The respondents have filed counter opposing the prayer of the applicants. No rejoinder has been filed. We have heard Shri A.Kanungo, the learned counsel for the petitioners and Shri B.Pal, learned Senior Panel Counsel (Railways) and Shri R.Ch.Rath, the learned Panel Counsel(Railways) for the respondents. We had earlier directed the learned counsel for the respondents to keep with him in a sealed cover the marks obtained by the different candidates including the applicants who had taken the written examination. Accordingly, these documents have been filed in a sealed cover and we have perused the same. For the purpose of considering the petition it is not necessary to go into too many facts of this case.

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2. The admitted position is that the petitioners were eligible to be considered for empanelment as AEN Group-B against 30% vacancies through Limited Departmental Competitive Examination (hereinafter referred to as "LDCE"). In letter dated 4.6.1999 at Annexure-1 applications were called for filling up 20 posts of AEN Group-B. It is also the admitted position that the applicants were eligible to take the written examination and their names find place in the list of candidates eligible to take the written examination at Annexure-2. Accordingly, the applicants took the written examination. It is also the admitted position that the written examination was in two papers. Paper-I is professional subject and General Knowledge carrying 150 marks and Paper-II is professional subject, establishment rules & financial rules carrying 150 marks. In order to qualify in the written examination, a candidate has to get minimum 60% marks in each of these two papers, i.e., minimum 90 marks. The applicants have stated that they have performed extremely well and must have secured the minimum qualifying marks, but they were not called for the viva voce allegedly on the ground that they did not qualify in the written examination. The applicants have further stated that they have learnt from reliable source that about 38 candidates had qualified in the written examination, but only a list of 10 candidates was published at Annexure-3 declaring that they have qualified in the written examination and would appear at the viva voce. The applicants have further stated that when the number of vacancies notified was 20, there was no reason to

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publish the list of only 10 candidates who had purportedly qualified in the written examination. They have further stated that they are absolutely sure that their written examination papers will speak of their performance if verified on production of the same.

3. The respondents have filed counter opposing the prayer of the applicants. It is not necessary to record all the averments made by the respondents in their counter. It is only necessary to note that according to the respondents 427 candidates appeared at the written examination held on 19.12.1999 for promotion to the post of AEN Group-B against 30% vacancies. The applicants also appeared at the written examination. The respondents have stated that out of 427 candidates, only 10 candidates qualified in the written examination and were accordingly called to appear at the viva voce on 11.7.2000. It is stated that as the applicants did not qualify in the written examination, they could not be called to the viva voce. The respondents have also denied the averment of the applicants that 38 candidates qualified in the written examination. They have also stated that panel of 10 candidates has already been published and promotion has also been given. On the above grounds the respondents have opposed the prayer of the applicants.

4. From the above recital of facts it is clear that the whole controversy in this case is whether the applicants have got the minimum qualifying marks in the written examination. We had, as earlier noted, directed

the respondents to produce the marks obtained by the applicants and all other candidates in a sealed cover. On perusal of the papers, after opening the sealed cover, it was found that the marks of all candidates have been mentioned in these documents according to the code number allotted to each of the applicants for the purpose of maintaining secrecy. As the code numbers allotted to these five applicants were not before us it was not possible to know what marks these five applicants had got. We had accordingly directed the learned Senior Panel Counsel (Railways) for the respondents to get an affidavit filed by a responsible officer indicating the code numbers allotted to these five applicants in respect of these two papers. Accordingly, Deputy Chief Personnel Officer, S.E. Railway, Garden Reach, Calcutta, has filed an affidavit indicating the code numbers given to these five applicants. We have verified the marks obtained by the applicants and we find that none of the five applicants has qualified in either of the papers, i.e., they have failed to get 90 marks (60%) both in Paper-I and Paper-II. Therefore, the respondents have been right in not calling them to the viva voce. We also find that 33 persons have got qualifying marks and above in Paper-I and 34 persons have similarly qualified in Paper-II. But only ten of these persons have qualified in both the papers and therefore, the ~~right~~ respondents have rightly called only ten persons to the viva voce. In the result, we find that no illegality has been involved in this. The applicants' averment that they had knowledge that 38 persons

have qualified in both the Papers is not correct and is not borne out by the record.

5. In consideration of the above, we hold that the Application is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
SOMNATH SOM
VICE-CHAIRMAN
20.4.2001

CAT/CB/20-4-2001/AN/PS