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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 304 OF 2000
Cuttack, this the 8th day of November, 2000

Muna Gauda 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
8/11/00

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CORAM:

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

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1. Muna Gauda, aged about 26 years, son of Narasingha Gauda of Gandhinagarpada, PO/Dist.Balangir.
2. Bhawanishankar Naik, aged about 28 years, son of Kapileswar Naik of Bishnumunda, PS/Dist. Balangir.
3. Ajit Kumar Panda, aged about 26 years, son of Lalit Mohan Panda of Tikarpada, PO/dist.Bolangir.
4. Jitendra Kumar Bagar, aged about 29 years, son of Sanyogi Bagar, of Gandhinagarpada, PO/Dist. Bolangir.

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Applicants

Advocates for applicants - M/s R.K.Sahoo
B.K.Mohanty
N.K.Prahraj

Vrs.

1. Union of India, represented by the Secretary, Ministry of Defence, Government of India, Department of Defence Production & Supplies, South Block, New Delhi-11.
2. D.G., Ordnance Factory and Chairman, Ordnance Factory Board, 6 Esplanade East, Calcutta-700 069.
3. V.R.Rao, A.G.M. & Chairman, Danger Building Worker Recruitment, Ordnance Factory, Badmal, Dist.Balangir.
4. Mr.T.K.Banerjee, General Manager, Ordnance Factory, Badmal, Dist.Bolangir.

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Respondents

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this application the four petitioners have prayed for quashing the selection process of written test and viva voce and the select list for the post of Danger Building Worker (DBW) in Ordnance Factory, Badmal. The second prayer, which is incidental to the first, is for a direction to the respondents that no appointment should be made out of the

select list for the post of DBW. The respondents have filed counter opposing the prayers of the applicants. The applicants along with four others have filed affidavits making certain averments in support of their prayers and the respondents have filed an affidavit in reply. For the purpose of considering this petition it is not necessary to note all the averments made by the parties in their pleadings. Essential facts urged by the applicants in support of their prayers can be briefly stated.

2. The admitted position is that for filling up 52 posts of DBW, the Ordnance Factory, Badmal issued an advertisement calling for applications. The essential qualification for the post is Matriculation with three years experience in the relevant trade and desirable qualification was trade certificate as Fitter (General), Machinist, Turner, Chemical trades, etc. , failing which Diploma/Certificate holder in the trade. The applicants have stated that they applied for the post and were issued with admit cards to appear at the written test to be held on 9.4.2000. They have stated that written test was to commence at 9.30 A.M. within the campus of Ordnance Factory. It is also the admitted position that the written test was through objective type multiple choice questions. The applicants have stated that when they reached the examination centre, they found that some of the non-Oriya candidates had the question papers with them. The applicants took the question papers and handed over the same to General Manager, ordnance Factory and complained that the question paper with ^{multiple} answers has been leaked and the examination should be postponed. The respondents conducted the written test and assured that the interview will be cancelled subsequently. In good faith the applicants appeared at the written test. On

10.4.2000 one Kishore Kumar Bhoi, who is not one of the applicants, informed the General Manager about leaking of question paper in his letter dated 10.4.2000 at Annexure-3. The applicants have stated that after the written test the respondents deliberately selected candidates in whom they were interested and who had been supplied the question paper by them and viva voce was held from 12.6.2000 to 20.6.2000, but the select list has not yet been declared. The applicants approached the respondents in their letter at Annexure-4 to cancel the written test, but this was not done. The applicants have enclosed at Annexure-4 one question paper. They have stated that there were newspaper reports enclosed by them to their OA that the local people have demanded C.B.I. enquiry into the matter and have gone on hunger strike. In the context of the above facts the applicants have come up in this petition with the prayers referred to earlier.

3. The respondents have opposed the prayers of the applicant. The averments made by them would be referred to while considering the submissions made by the learned counsel of both sides.

4. We have heard Shri B.K.Mohanty, the learned counsel for the petitioners and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have perused the records.

5. The only ground urged by the applicants for quashing the selection is that according to them, before the written test was held on 9.4.2000 the question paper had leaked out and thereby the entire examination process has been vitiated. In support of their contention that the question paper has been leaked out they have stated that they had seen the question paper with some non-Oriya candidates prior to

commencement of the written examination and they have handed over the question paper to the General Manager, Ordnance Factory and have also complained and asked for postponement of the written test. The respondents in their counter have denied this averment. They have stated that arrangements for written test for the post of DBW were made and 9000 candidates appeared at the written test at six centres within the premises of Ordnance Factory, Badmal. A number of officers and staff totalling around 400 were deployed to conduct the written test. The internal security set up was also deployed. They have stated that secrecy was maintained in preparing the test-cum-answer booklets. An officer of the rank of Joint Secretary was the Chairman of the Selection Committee and other members of the Selection Committee are of the rank of Director, Deputy Secretary and Under Secretary to Government of India. They have denied that the General Manager was informed on 9.4.2000 before the commencement of the examination about leakage of question paper. The applicants have stated that as the question paper was a test-cum-answer paper a candidate, after the examination was over, was required to hand over the test-cum-answer papers to the invigilators. But one such paper has been enclosed by them at Annexure-4. The applicants have stated that the paper at Annexure-4 is the leaked question paper. The respondents have stated that in spite of all arrangements some candidates managed to leave the examination centre without handing over the question papers. They have enclosed a list signed by all invigilators regarding the number of seats in different centres, the test-cum-answer papers distributed to the candidates, and the answer papers received. They have stated that from this list it is clear that some of the examinees managed to leave the examination centre with the test-cum-answer papers. They

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have stated that the very fact that in the test paper at Annexure-4 some of the questions have been answered shows that this is the paper distributed in the examination centre and one of the examinee must have left the examination centre with this question paper and this has been filed at Annexure-4 to the OA. The respondents have also stated that the representation purportedly filed by Kishore Kumar Bhoi on 10.4.2000 had not been received by them. The respondents have stated that a representation was received only on 19.6.2000 by the representative of General Manager in which copy of letter dated 10.4.2000 at Annexure-3 was enclosed. Prior to this date there was no written complaint about the leakage of question paper. The applicants have not brought any material on record to prove their allegation that they had handed over the so called leaked question paper to the General Manager prior to commencement of the written examination, as has been mentioned by them at page 3 of the O.A. In view of this, their contention that a leaked question paper was handed over to the General Manager cannot be accepted. In the affidavits filed by Kishore Kumar Bhoi who has purportedly submitted the representation at Annexure-3 he has stated that he reported the matter to the Works Manager on 9.4.2000. It is important to note that in this affidavit he has not stated that the matter was reported to the General Manager by him as has been mentioned in the O.A. From the Centre Superintendents' report which is a contemporaneous document enclosed by the respondents along with their counter and which has been signed by all the concerned officers, it is clear that all the question papers distributed to the candidates in different centres were not returned. This coupled with the fact that some of the questions in Annexure-4 have been answered by tick marks and rounding of the question numbers

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makes it clear that Annexure-4, is one of the test paper which was distributed during the examination. In view of this, we hold that the applicants have failed to prove ^{that} the question paper had leaked out prior to holding of the examination. Shri B.K.Mohanty, the learned counsel for the petitioners has submitted that the respondents have stated that some of the examinees managed to leave the centre without handing over the test paper, but no action has been taken by the respondents by filing report in the police station. It is further submitted that the respondents have admitted that on 19.6.2000 they received a complaint of leakage of question paper but the respondents have not stated as to what action has been taken by them on such complaint. These submissions are not germane to the point whether the question paper was actually leaked out or not. We have already held that the applicants have contradictory submissions with regard to their informing the factory authorities about leakage of question papers. We have also held that test-cum-answer paper at Annexure-4 appears to be a paper distributed in the examination centre. In consideration of this, we hold that the applicants have failed to prove that the question paper had leaked out. The above ^{being} the only ground in support of the prayer of the applicants to quash the selection process we hold that the applicants are not entitled to the relief claimed by them.

6. In the result, therefore, we hold that the application is without any merit and the same is rejected. MA No.704 of 2000 is accordingly rejected. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Somi
(SOMNATH SOMI)
VICE-CHAIRMAN
8/11/2000