

44

34

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 384 OF 2000
Cuttack this the 7th day of Jan. 2005

Durgasisa Sahoo ... Applicant(s)


- VERSUS -

Union of India & Ors. Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? ND
2. Whether it be circulated to all the Benches of ^{YS}
the Central Administrative Tribunal or not ?


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

15

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CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 384 OF 2000
Cuttack this the 7th day of Jan. 2005

CORAM:

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

AND

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

...

Sri Durgasisa Sahoo, aged about 33 years,
Son of Rama Chandra Sahoo - at present
residing at N3/371, I.R.C. Village,
Nayapali, Bhubaneswar, District - Khurda

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Applicant

By the Advocates

M/s. Sandeep Parida
Amiya Ranjan Naik

- VERSUS -

1. Union of India represented through the
General Manager, South Eastern Railway,
Garden Reach, Calcutta-43
2. Railway Recruitment Road, A-84, Kharavela
Nagar, Bhubaneswar-1 at present at
Chandrasekharapur, Bhubaneswar - represented
through its Secretary
3. Chief Personnel Officer, South Eastern Railway
Garden Reach, Calcutta-43

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Respondents

By the Advocates

Mr. Ashok Mohanty
Mr. D.N. Mishra

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ORDER

MR. B.N. SOM, VICE-CHAIRMAN: Applicant, Shri Durgasisa Sahoo has filed this Original Application challenging the order No.P/L/13/Mech/Elect/RG/RRB/Misc. dated 2.5.2000 (Annexure-4) passed by Respondent No.3 informing him that inspite of his selection to the post of Assistant Driver (Diesel/Elect.) his selection was cancelled on the ground that he had failed to turn up in person in time to join the post offered to him. He has, therefore, approached the Tribunal to direct the Respondents-Railways to allow

him to join the post for which he had been selected vide Employment Notice No.1/96.

2. The Respondents-Railways have contested the O.A. by filing rejoinder. However, the facts of the case are not disputed. They have opposed the prayer of the applicant on the ground that the applicant was one of the 62 candidates, who did not turn^{up} in time for appointment out of 355 candidates, who had appeared for medical examination. They have also submitted that the panel of candidates selected for appointment through Railway Recruitment Board (in short R.R.B.) remains operative for one year and the candidates, who are issued with letter^s appointments are required to report within the stipulated time as mentioned in the appointment letter. But in the instant case, the applicant neither turned up within the stipulated time nor within one year of the life of the panel, which expired on 23.6.1998 and therefore, it was not feasible on their part to offer him any appointment. They have further submitted that it was only in April, 2000, the applicant brought the matter to the notice of the Respondents that he had not received any letter of offer from their office, by which time, the life of the panel had expired.

3. We have heard the learned counsel of both the sides and perused the records placed before us.

4. Vide our order dated 18.9.2000, Respondents were directed not to fill up one of the posts of Asst.Driver (Diesel/Elect.) in the general category, if still vacant, without the leave of this Tribunal, as an interim measure.

and this interim order is in force till this day.

5. We have considered the rival submissions advanced at the Bar. Prima facie, it appears to be a strange case where a candidate (applicant herein) having received a letter of appointment stayed back from joining the job offered to him, after going through the rigour of the examination in the most competitive environment. We, therefore, had asked the Respondents-Railways to confirm the mode of despatch of the letter/offer of appointment from their office to the candidate/applicant. In reply, we were apprised that those letters/offer of appointments were sent by ordinary post. In the circumstances, the Respondents were unable either to prove that the letters were actually dispatched and/or prove that the applicant had in fact received the letter of appointment, but did not join the post for the reasons best known to him. We are surprised to note that such an important communication, like the offer of appointment is sent by ordinary post by the Respondents/Department/RRB. As the Respondents are not in a position to prove beyond doubt that they had actually issued letter/offer of appointment to the applicant, we have no hesitation to hold that there was no service of letter of appointment on the applicant at all. In the circumstances, we are in agreement with the submission/averments made by the applicant that he was not offered with letter of appointment although his name was in the list of successful candidates for appointment to the post of Asst. Driver (Diesel/Elect.) in the general category.

8

6. As noted earlier, as an interim measure, this Tribunal had directed the Respondents not to fill up one post of Asst.Driver (Diesel/Elect.) in the general category, if still vacant, without the leave of the Tribunal. No submission to the contrary has been made before us by the Respondents and therefore, it is presumed that one vacancy in the grade of Asst.Driver(Diesel/Elect.) is vacant to accommodate the applicant.

7. Having regard to the facts and circumstances of the case as discussed above, we hereby quash Annexure-4 dated 2.5.2000 intimating the applicant that the life of the panel had already expired. Accordingly, we direct the Respondents-Railways to issue a fresh letter/offer of appointment to the applicant by Regd.Post with A.D. stipulating therein a time-frame for the applicant to join the post in question, after completing medical test and other pre-appointment formalities.

8. As delay in his appointment has been caused on account of the reasons not attributable to the applicant, his seniority in service after his appointment would be taken into account as per his position in the merit list of candidates selected for the post of Asst.Driver(Diesel/Elect.) in the scale of Rs.3050-4590/- in pursuance of Employment Notice No.1/96.

9. In the result, the O.A. succeeds. No costs.

(M.R.MOHANTY)
MEMBER(JUDICIAL)

BJY

(B.N.-SOM)
VICE-CHAIRMAN