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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 95 OF 2000
Cuttack, this the 4th day of October, 2000

Sri Kumarbar Behera Applicant

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 Soni
(SOMNATH SONI)
VICE-CHAIRMAN

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CORAM:

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

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Sri Kumarbar Behera, aged about 36 years, son of Hata Behera, Village/Post-Naharkanta, Via-Balianta, Dist.Khurda
..... Applicant

Advocates for applicant - M/s K.C.Kanungo
S.Behera

Vrs.

1. Union of India, represented through the Director General, Department of Post, Dak Bhawan, Sansad Marg, New Delhi-1.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist.Khurda.
3. Manager, Postal Printing Press, Mancheswar Industrial Estate, Bhubaneswar-10, Dist.Khurda.
4. Sri Akshaya Kumar Panda, aged about not known, c/o Orissa Sanitary Mart, Kalpana Square, Bhubaneswar-14, Dist.Khurda

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Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

S.Som.
In this application the petitioner has prayed for calling for records of selection test held on 19.1.2000 for the post of Pump Operator and for quashing the same. The second prayer is for a direction to the departmental respondents to conduct fresh interview for the post of Pump Operator and for considering the candidature of the applicant along with others in terms of the Tribunal's orders dated 16.7.1996, 9.1.1998 and 20.8.1999. The departmental respondents have filed counter opposing

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the prayers of the applicant, and the applicant has also filed a rejoinder. The selected candidate (respondent no.4) was issued with notice but he did not appear or file counter. For the purpose of considering this OA it is not necessary to go into too many facts of this case.

2. The applicant's case is that he was engaged as EDMC-cum-ED Packer as a substitute in Ganganagar Post Office, Bhubaneswar in 1983-84 and 1989-90. He had worked as Pump Operator for a total period of 234 days under Manager, Postal Printing Press (respondent no.2) in 1992-93. After his disengagement an advertisement was issued for filling up of the post of Pump Operator on regular basis and the applicant filed OA No.530/93. In that OA the applicant filed MA No. 465 of 1996. The MA and the OA were disposed of in order dated 16.7.1996. The Tribunal noted that it cannot direct appointment of the applicant which should be done in accordance with the Recruitment Rules. It was also noted that simply because the applicant operated the pump for some days, it does not ipso facto entitle him to be regularised. The Tribunal noted that the selection committee may find more experienced Pump Operators or more qualified Pump Operators. The Tribunal directed that the selection shall be based on comparative merit. The Tribunal also directed that the case of the applicant should be considered on merits on all counts giving due weightage to his experience as also age relaxation to the extent of service rendered. The applicant filed another MA No. 621 of 1997 which was disposed of in order dated 9.1.1998 in which the learned Additional Standing Counsel submitted that there is no vacant post of Pump Operator. In view of the earlier order of the Tribunal, this MA was disposed of with a direction to the

S. Jom.

departmental authorities that his candidature should be considered in the next available vacancy of either Group-D or Pump Operator in terms of the easrlier order dated 16.7.1996 passed by the Tribunal. The applicant again came up with another MA No. 261 of 1999 praying for a direction to the departmental authorities to complete the process of selection for filling up of the post of Pump Operastor within a specified time. On perusal of the counter filed by the respondents the MA was disposed of with a direction to the departmental authorities to follow the time frame indicated by them in the counter to the MA for completing the selection for the post of Pump Operastor. Accordingly the applicant was called to a selection test for the post of labourer on 30.10.1999 and was also called to an interview on 19.1.2000 in annexure-3. But as the applicant was not selected and respondent no.4 was selected the applicant has come up in this petition with the prayers referred to easrlier.

S. Som.

3. In their counter the respondents have stated that respondent no.4 was selected on the basis of his performance in the interview, the selection procedure was done on a regular basis, and the applicant was not selected by the selection committee which followed due procedure in the matter of selecting the proper candidate.

4. We have heard Shri K.C.Kanungo, the learned counself or the petitioner and Shri a.K.Bose, the learned Senior Standing Counsel for the departmental respondents and have also perused the records. The learned Senior Standing Counsel for the respondents has filed the proceedings of the selection committee and we have perused

the same. The learned counsel for the petitioner has produced the extract of the recruitment rules relating to Assistant Pump Operator/Assistant Pump Driver which has also been taken note of.

5. It has been submitted by the learned counsel for the petitioner that for the post of Assistant Pump Operator, the direct recruitment quota is 25% and promotion quota is 75%. For direct recruitment quota the requirement is practical experience of three years in handling E & M Plants including normal running maintenance, knowledge of motor pumps and I.C. Engines. The learned counsel for the petitioner has submitted that in the selection committee which interviewed the candidates there was not one person with knowledge of mechanical engineering and therefore the constitution of the selection committee is wrong. We find that the Manager, Postal Printing Press was the Chairman of the Committee, Deputy Manager-I and Deputy Manager-II of the Postal Printing Press were two other members and the fourth member was Superintendent, Postal Stores Depot. The departmental respondents have pointed out that the Manager, Postal Printing Press is a technical person and is fully competent to interview candidates for the post of Pump Operator. As per the settled law it is not open for the applicant to appear at the interview before a selection committee and after being unsuccessful, question the composition of the selection committee. Moreover, as the Manager, Postal Printing Press is a technical person with sufficient knowledge of electrical and mechanical devices, as has been mentioned by the departmental respondents, it cannot be said that the constitution of the Selection Committee was incorrectly done. This contention is therefore rejected.

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6. The second ground submitted by the learned counsel for the petitioner is that in spite of direction of the Tribunal, the applicant's experience was not taken into account. On a reference to the selection committee records we find that his experience was taken into account and it was noted that he had experience in the Postal Printing Press and the experience certificate produced by him was also taken note of. This contention of is therefore held to be without any merit.

7. On further reference to the selection committee records we find that each of the members of the selection committee marked the candidates separately and the total of the marks given by each member of the Selection Committee in respect of a particular candidate was taken into account. We note that respondent no.4 got the highest marks and between the applicant and respondent no.4 there were several other candidates who got more marks than the applicant but less than respondent no.4. Law is well settled that the Tribunal cannot act as an appellate authority over the selection committee. On perusal of the records of the selection committee, we find no illegality in conducting of the selection.

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8. In consideration of all the above, we hold that the applicant has not been able to make out a case for any of the reliefs claimed by him. The Original Application is held to be without any merit and is rejected. No costs.

(G. NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
H. 10.2.10
VICE-CHAIRMAN