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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A. NO. 160 OF 2001

Cuttack, this the 8th day of November, 2004

Shri Laxman Kumar Kisku

Applicant

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? NO
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? NO

(M.R. MOHANTY)
MEMBER (JUDICIAL)

08/11/2004

(B.N. SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

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Cuttack, this the 8th day of November, 2004

CORAM:

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

AND

HON'BLE SHRI M.R.MOHANTY, MEMBE(JUDICIAL)

.....

Sri Laxman Kumar Kisku, at present working as W.C.Grade-I, O/O the
Executive Engineer ©, Postal Civil Division, Cuttack 3

.....Applicant

vs.

1. Union of India, represented through its Director General (DW),
Department of Post, Dak Bhawan, New Delhi.
2. Chief Engineer (Civil), H.Q., Department of Posts, Dak Bhawan,
New Delhi 1
3. Superintending Engineer (Civil), Postal Civil Circle,
G.P.O.Complex, Department of Posts, Patna, Bihar.
4. Executive Engineer (P) Postal Civil Division, AI/PO
Cuttack, Orissa 753003

..... Respondents

Advocates for the applicant - M/s B.B.Acharya, C.Mohanty & PRJ
Dash

Advocates for the respondents - Mr. S.B.Jena, ACGSC

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Laxman Kumar Kisku, at present working as Works Clerk Grade
I, in the office of Executive Engineer (Civil), Postal Civil Division, Cuttack,
has filed this Original Application challenging the inaction of the Respondents
in not considering his case for absorption in the Civil Wing of the Telecom

Department as per his revised option and for non-disposal of the representation submitted by him to that effect. He has, therefore, approached the Tribunal with a prayer to direct the Respondents to consider his case for final absorption in the Civil Wing of Telecom Department as per his revised option submitted on 24.5.1995 pursuant to the letter issued by the Headquarters on 17.5.1995.

2. The case of the applicant is that after being selected for the post, he had joined the erstwhile Posts & Telegraphs Department. By letter dated 17.5.1995 (Annexure 1) options were invited from the staff of the undivided Civil Wing for formation of two separate Civil Wings for the Department of Posts and Department of Telecommunications. Every member of the staff was required to send the revised option by 31.5.1995 indicating whether he would finally opt to stay with the Postal Civil Wing or not. The grievance of the applicant is that he had in response to that circular submitted his revised option on 24.5.1995, which was duly forwarded to the Superintending Engineer, Postal Civil Circle, Patna, on 26.5.1995. But surprisingly, his name was not included in the final list of optees for the Department of Telecommunications, Civil Wing. He had made representation against non-inclusion of his name in the list of optees for Civil Wing of the Department of Telecommunications, which ^{has} so far yielded no result.

3. The Respondents have opposed the Original Application on several grounds including that it suffers from misjoinder and nonjoinder of parties as the Telecom Department has not been made a party even though the

applicant wants to be included in the Civil Wing of Telecom Department. On the merit of the case, they have stated that by their letter dated 17.5.1995 they had called for options from the officials other than those who belong to ministerial cadre like the applicant. They have disclosed that the Civil Wing was bifurcated into Civil Wing (Postal) and Civil Wing (Telecom) with effect from 1.4.1993 and the applicant had opted to remain in the Postal Civil Wing vide his option dated 14.7.1993. He repeated the same option by his letter dated 30.5.1994 and that is how he was continuing in the Postal Civil Wing. It is admitted that on 24.5.1995 he had given a revised option which was not accepted by the Respondents on the ground that the letter dated 17.5.1995 calling for revised option did not cover the category of staff like him. They have also disclosed that the representation made by him had already been turned down by the competent authority by his letter dated 26.3.1996 (Annexure R/1).

4. We have heard the learned counsel for both the parties and have perused the records placed before us.

5. The controversy raised in this O.A. is, whether the letter issued by the Respondents on 17.5.1995, at Annexure 1, allowed all categories of staff in the Postal Civil Wing to revise their option or not.

6. The Respondents' case is that the letter dated 17.5.1995 did not call for revised option from all categories of staff. In fact, the same point was clarified in the letter dated 26.3.1996 (Annexure R/1) where the Superintending Engineer © Headquarters, Postal, wrote to the Superintending Engineer ©,

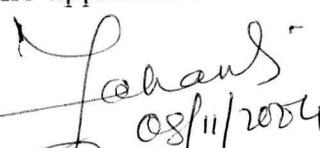
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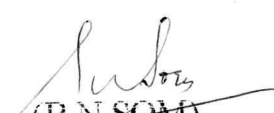
Postal Civil Circle, Patna, that the revised options were called only from technical and non-ministerial cadres by their letter dated 17.5.1995 and that no revised option had been called for from the ministerial cadre and therefore, the options received from the staff belonging to the ministerial cadre were not considered. The learned counsel for the applicant, on the other hand, has repeatedly argued that the letter dated 17.5.1995 did offer the applicant also an opportunity to exercise option.

7. To end the controversy we have gone through the letter dated 17.5.1995 as well as the letter dated 26.3.1996. In our opinion, the letter dated 17.5.1995, in paragraphs 1 and 2, has given the historical background of exercising options by the various categories/cadres of staff, both technical and non-technical of the erstwhile Posts & Telegraphs Department's Civil Wing and observed that the difficulties were being created due to receipt of options for changing the Civil Wing in a piecemeal manner. It was, therefore, decided to prepare, once for all, a list of officials who had exercised option after the date fixed for submitting revised option and for that purpose they called upon all the Executive Engineers(Civil/Electrical) and Regional Architects to send by 31.5.1995 "a list of names from these various cadres who are desirous of changing their options from the Civil Wing of the Department of Posts to the Civil Wing of the Department of Telecom". The learned Additional Standing Counsel for the Respondents strenuously submitted that the underlying idea of issuing this letter was to collect the names of such officials who had exercised their option after expiry of the date

of exercising revised option and the objective was not to open the gate for everybody once again. While we have no doubt that the Respondents had every liberty to take such a policy decision, but unfortunately the letter issued by them on 17.5.1995 did not contain such a decision. A plain reading of paragraph 3 of the letter dated 17.5.1995 clearly brings out that all the Executive Engineers(Civil/Electrical) and Regional Architects were asked to prepare the final list of officials from all cadres who want to change their option once again and forward the same to the headquarters for further necessary action. Had this not been the case, the concerned Executive Engineers and Regional Architects would not have circulated the letter to all concerned calling for revised option. It is only because of fresh circulation of this notice calling for revised option that the applicant could change his mind and opt for going over to the Civil Wing of the Telecom Department. In the circumstances, we do not see any reason on the part of the Respondents to deny the benefit of the option exercised by the applicant.

8. Having regard to the above facts of the case, we allow this Original Application and direct the Respondents to take further necessary action to allow the applicant the benefit of his revised option. No costs.


(M.R. MOHANTY)
MEMBER(JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN