

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 232 OF 2001

Cuttack, this the 5th day of January 2004

Rahmat Alli Khan

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*

5/1/04
(M.R.MOHANTY)
MEMBER(JUDICIAL)

B.N.SOM
(B.N.SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

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Rahemat Alli Khan, aged about 30 years, son of Eshak Alli Khan, Village Mirzapur, P.O.Chandipur, Dist.Balasore

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Applicant

Advocates for the applicant - M/s S.K.Das, S.J.Nanda,
S.S.Mohapatra, S.K.Chhotray,
J.K.Swain

Vrs.

1. Union of India, represented through the Secretary to Government of India, Ministry of Defence, Department of Defence Research and Development, New Delhi.
2. Director & Commandant, Government of India, Ministry of Defence, Research & Development Organization, Proof & Experimental Establishment, P.O-Chandipur, Dist.Balasore 756 025
3. Manoj Kumar Village Dccpnagar, P.O.Dccpnagar, District Nalanda, Bihar 803 111, at present working as Helper, Office of the Director & Commandant, Research & Development Organization,Proof & Experimental Establishment, P.O.Chandipur, Balasore 756 025

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Rcspondcnts

Advocate for the Respondents - Mr.S.B.Jena, ACGSC

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Shri Rahemat Alli Khan seeking the following reliefs:

- (i) To quash the order of appointment issued in favour of Respondent No.3 as Helper under Annexure 6;
- (ii) To direct Respondent Nos. 1 and 2 to issue order of appointment in favour of the applicant as Helper retrospectively since he has fulfilled all the criteria in the advertisement.

2. The facts of the case are that Respondent-Department had issued an Employment Notice, as at Annexure 2, for filling up, amongst others, eight posts of Helper (4 unreserved, 2 OBC, 1 SC and 1 ST). The applicant, who is a general category candidate, had applied for the post. He was called for interview which was held on 7-9th May 2000. The applicant has alleged that there was some "discrimination while conducting interview by the authorities", without elaborating as to how the discrimination was perpetrated by the Respondent-Department. Finally, he was not favoured with the appointment. He has assailed his non-selection as an instance of

total non-application of mind with mala fide intention. His plea is that though he was a candidate possessing HSC +2 qualification with ITI Certificate while he was not selected, some of the candidates, who were favoured with the job, did not possess ITI Certificate. That clearly establishes that the selectors had adopted a step-motherly attitude towards the applicant with ulterior motive. He has submitted that the post of Helper being a Group D post, the local people should have been preferred to the outsiders and to that effect, referred to some directions of the Hon'ble High Court of Orissa. In the end, the applicant has made two-fold submissions, firstly that he should have been selected, and, secondly, that the appointment of Respondent No.3 is bad in the eye of law and hence should be quashed.

3. The Respondents by filing a counter have contested all the averments made by the applicant. They have emphatically controverted that Respondent No.3 was a General category candidate. On the other hand, they have stated that he belongs to reserved category (OBC) whereas the petitioner belongs to General category and therefore, the appointment of Respondent No.3 has in no way affected the case of the petitioner in the matter of selection. They have also strongly refuted that possession of ITI Certificate was an essential qualification for the post. It has been stated by



the Respondent-Department that they had not mentioned in the Employment Notice that the candidates possessing higher qualification than what is notified would be given weightage. They have also submitted that the averment made by the applicant that "direct recruitment of Group C and Group D posts normally attracting candidates from a locality or a region", if pursued, will be violative of Article 16(2) of the Constitution. On the merits of the applicant's case, the Respondents have stated that in all 316 candidates had fulfilled the eligibility criteria from among the General Category candidates who had applied directly. On the basis of the test/interview carried out by the Selection Committee, the applicant secured 5th position in the list of candidates recommended for appointment under unreserved quota, i.e., he was kept first in the waiting list. Had there been any vacancy during the validity of the select list, he would have got the offer of appointment.

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

5. We have considered both the issues raised by the applicant. We are unable to find any irregularity in the conduct of the selection process. The merit list was drawn up through computerized process and the Selection Committee composed of senior officers of the Respondent-Department.

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Further, the applicant has miserably failed to place before us any evidence of mala fide in the conduct of the work of the Selection Committee and in the circumstances, we have no hesitation in rejecting his plea made in this regard.

6. With regard to the second plea about the eligibility of Respondent No.3, we are satisfied, after perusing the application form submitted by Respondent No.3 in response to the Employment Notice, that he had offered his candidature as one belonging to OBC community and therefore, the allegation brought against him by the applicant is misconceived.

7. In the circumstances, this Original Application must fail, and we order accordingly. No costs.

20/01/54
(M.R.MOHANTY)
MEMBER(JUDICIAL)

N.Som
(B.N.SOM)
VICE-CHAIRMAN

AN/PS