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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK.

Original Application No.300 OF 2001
Cuttack, this the 16th day of September, 2005.

MANASA CHANDRA MAHANTA

APPLICANT

Versus

UNION OF INDIA & Ors.

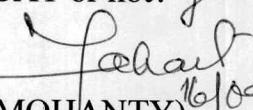
RESPONDENTS

FOR INSTRUCTIONS

m. Whether it be referred to the reporters or not? Yes.
2. Whether it be circulated to all the Benches of CAT or not? Yes.


(B.N.SOM)

VICE-CHAIRMAN


(M.R.MOHANTY)
16/09/05-
MEMBER(JUDICIAL)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

**Original Application No.300 OF 2001
Cuttack, this the 16th day of September,2005.**

CORAM:

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

MANAS CHANDRA MAHANTA, 21 years,
Son of B.C.Mahanta, Jalda, Raghunathpalli,
Rourkela, Dist. Sundergarh,
Chowkidar under S.S.E(Tele/Con.)S.E.Rly.,
Chakradharpur, Jharkhand.

..... **APPLICANT.**

For the Applicant : M/s.A.K.Mishra, J.Senguta,
D.K.Panda, P.R.J.Dash,
G.Sinha,, Advocates.

VERSUS

1. Union of India, represented through its General Manager, South Eastern Rlys., Kolkata-43, West Bengal.
2. Divisional Railway Manager(P), S.E.Rly., Chakradharpur, Jharkhand.
3. Dy.Chief Sig and Telecom Engr.(Con.), S.E.Rly, Chakradharpur, Dist.Chainbasa, JHARKHAND.

..... **RESPONDENTS.**

For the Respondents: Ms. S.L.Patnaik,
Counsel for Railways.



O R D E R

MR.M.R.MOHANTY, MEMBER(JUDL.)

In order to fill-up 44 Group 'D' vacancies in the Railways, (15 posts by Visually Handicapped, 15 posts by Orthopaedically Handicapped and 14 posts by Hearing Handicapped), a notification was made by Respondent No. 2 on 10-02-1999 inviting applications from the eligible candidates in the above categories. Pursuant to the said Notification , Applicant applied for consideration of his case as against the vacancies meant for visually handicapped quota. He was asked to attend the interview on 12.12.2000 and it is an admitted fact that he having been found suitable under the quota "Visually Handicapped" his name was published in the panel list published by the Railways on 09-01-2001.

As per the Rules of the Railways the empanelled candidates are required to face the medical test and, in the instant case, on the request of the Applicant, he was sent (for medical examination) to the Medical Superintendent/Bandhamunda; who, without obtaining the opinion of an Ophthalmologist/expert on the subject, declared the Applicant fit in C-2 and, on the basis of the said report of the Medical Superintendent/ ,Bandhamunda, the Applicant was posted as Ty. Chowkidar under the Divisional (Signal and Telcom) Engineer(Con.)/Chakradharpur vide Office order dated 03.04.2001. However, on the basis of a complaint

received, with regard to the degree of his disability, the Applicant was again sent to the Ophthalmological Clinic (Eye Specialist) at Divisional Railway Hospital/Chakradharpur for certification of his visual disability. On receipt of the findings of such Medical examination (that was conducted at Chakradharpur Railway Hospital) the matter was placed before the Chief Medical Director (Eye) of Railways; who opined that the Applicant can not be considered as a visually handicapped person as per the Ophthalmological findings. On the basis of the said findings of the experts, the services of the Applicant were terminated by the competent authorities under Annexures-9 & 10 dated 21.06.2001. The said action of the Authorities is called in question (by the Applicant named Manas Chandra Mahanta) in this Original Application filed under section 19 of the Administrative Tribunals Act, 1985.

2. Notwithstanding various averments/submissions made by the Applicant in his pleadings and that of the Respondents, as made in their counter filed on 17.07.2002, learned counsel appearing for respective parties addressed on the point relating to disability aspect of the Applicant; especially because the Applicant, undisputedly, ^{is} _^ blind by one eye.

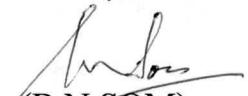
3. In order to find out the veracity/report/final opinion given by the experts with regard to the visual disability of the Applicant, we had directed for personal appearance of the expert and, accordingly, Dr. 

Debasish Bandyopadhyay, the Sr. Divisional Medical Officer (Eye) stationed at Adra Railway Division appeared and assisted us to resolve the matter in issue. On 18-11-2004 Mr. Bandyopadhyay, Sr.D.M./Eye of Adra Railway Division explained the matter in great detail.

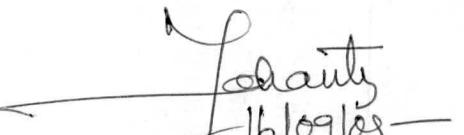
4. On perusal of the materials placed on record, we are also convinced that the degree of visual handicap ness of the Applicant do not bring him within the required degree of visually handicap eligible to be appointed against the post reserved for such category of candidates; as per the Indian Railway Medical Manual placed under Annexure-R/3. We are also satisfied, during the oral hearing of this case, that the report given by the Medical Supdt./Bandhamunda does not speak about the degree of visual handicapped of the Applicant.

5. On the basis of the materials placed on record, we are fully convinced that the Applicant was not available to be appointed, under the Railways, against the post reserved for a visually handicapped candidate; for he had no required degree of eye defect. In other words, the Applicant does not have the basic eligibility condition to be even considered for a post reserved for visually handicapped candidate. Since, the Applicant has no eligibility condition as per Indian Railway Medical Manual (which was found out after examination the Applicant by very senior Specialists) the plea of non-compliance of the principles of natural justice, (before passing of the order of termination) has got no leg to stand on.

stand; because he was given full opportunity to be examined by a Specialist in order to over-come the opinion of a non-specialist doctor of Bandhamunda. That apart, the Applicant placed no materials (neither before the Railway Authorities; nor in this case/before us) to show the opinion of the Specialists to be not correct. Therefore, having found no merit in this O.A., the same is hereby dismissed. There shall be, however, no order as to costs.


(B.N. SOM)

VICE-CHAIRMAN


(M.R. MOHANTY)

MEMBER (JUDICIAL)