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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.535 OF 2001  
Cuttack this the 21st day of February/2002

Sonu Kishan

...

Applicant(s)

-VERSUS-

Union of India & Others ...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to 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)

  
(S.A.T. RIZVI)  
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.535 OF 2001  
Cuttack this the 21st day of February/2002

CORAM:

THE HON'BLE SHRI S.A.T.RIZVI, MEMBER (ADMINISTRATIVE)  
AND  
THE HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

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Sonu Kishan, S/o. Late Chaitan Kishan,  
Vill-Malimunda, PO: Talmal, O.M.P. Line  
(Bandar Para) P.S./Dist-Jharsuguda -  
at present employed as Section Engineer,  
P.Way, Angul, S.E.Rly.

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Applicant

By the Advocates

M/s.K.P.Bhaumik  
A.R.J.Sharma

-Vrs.-

1. Union of India represented through Chief Traffic Engineer, S.E.Rly, Garden Reach, Kolkata-43
2. Chief Personnel Officer, S.E.Rly, Garden Reach, Kolkata-43
3. Senior Divisional Engineer (Co-ordination)  
S.E.Rly, Sambalpur

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Respondents

By the Advocates

Mr.D.N.Mishra,  
Standing Counsel

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O R D E R

MR.S.A.T.RIZVI, MEMBER (ADMINISTRATIVE): A selection process has been initiated by the Chief Personnel Officer, S.E.Rly., (Respondent No.2) for preparing a panel for promotion to the post of Assistant Engineer (Group B) against 70% departmental quota. Section Engineers, Senior Section Engineers and several other categories are eligible for participating in the selection process. In accordance with the procedure, a written test was held on 19.2.2001 and 26.5.2001. 48 persons qualified in the aforesaid written test (Annexure-2) and they were called for viva voce test.)

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2. Before the viva voce test could be held, the present Original Application has been filed challenging the written test held as above and a prayer has been made for restraining the respondents from holding the viva voce test until the present O.A. has been disposed of. The aforesaid written test is also under challenge on the ground of arbitrariness, illegality etc.

3. On 11.2.2002, the interim prayer sought was not allowed. Instead the respondents were directed that the result of the viva voce test shall abide by the result of this Original Application. The learned counsel appearing on behalf of the applicant has challenged the aforesaid written test on the ground that all the candidates have not been tested against one and the same question paper. The written examination having been organised on two different dates, the respondents have examined the candidates by <sup>2 setting</sup> ~~2 setting~~ different question papers on separate dates. The learned counsel submits that in view of this, the respondents were prevented from adjudging the performance of ~~the~~ candidates on a uniform basis and the result of the written test, therefore, stands vitiated. We do not agree. Examinations involving ~~more~~ a large number of candidates are often, for reasons of lack of infrastructure required to be held on different dates purely on administrative ground. This cannot mean that the outcome of such <sup>a</sup> written test will automatically stand vitiated for lack of uniformity in the manner contended by the learned counsel for the applicant. After all the candidates appearing on different dates have been tested on each occasion <sup>in</sup> ~~on~~ a uniform basis and this, in our judgment is enough to satisfy the



requirement of uniformity for purposes of promotion. The aforesaid ground, cannot therefore, be sustained.

4. The learned counsel appearing for the applicant has next proceeded to take the ground that the outcome of the written test aforesaid is suspect for the reason that those included in the list of 48 candidates had not succeeded in an earlier examination for promotion from the post of Section Engineers to the post of Sr. Section Engineer, in which the applicant has undoubtedly succeeded. This ground also, we find, does not hold good. We have perused the aforesaid list of 48 successful candidates and find that a very large number of Senior Section Engineers have qualified in the written test for promotion to the post of Assistant Engineer.

5. We note that the present challenge to the selection process, if it had succeeded, would have affected the candidates listed in the list of 48 successful candidates. The applicant, was therefore, under an obligation to implead those candidates. He has not done so. The present O.A. is bad for non-joinder of necessary parties.

6. For the reasons mentioned in the preceding paragraphs the O.A. stands dismissed. There shall be no order as to costs.

*Yell*  
21/02/2002  
(M.R.MOHANTY)  
MEMBER (JUDICIAL)

*S.A.T.RIZVI*  
(S.A.T.RIZVI)  
MEMBER (ADMINISTRATIVE)

B.K.SAHOO//