

9  
CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

O.A.NO. 455 OF 2003  
Cuttack, this the 15<sup>th</sup> day of February, 2005

Pabitra Kumar Das

.....

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

15/02/05  
(M.R. MOHANTY)  
JUDICIAL MEMBER

(B.N. SOM)  
VICE-CHAIRMAN

10

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

O.A.NO. 455 OF 2003

Cuttack, this the ~~14th~~ day of February, 2005

15th

**CORAM:**

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

**AND**

**HON'BLE SHRI M.R.MOHANTY, JUDICIAL MEMBER**

.....

Pabitra Kumar Das, aged about 43 years, son of Muralidhar Das, village Sadangoy Paschima Bad, P.O. Sadangoy, P.S.Delanga, Dist.Puri 752 015 and at present working as J.E.-I under the Section Engineer (C&W), East Coast Railway, Cuttack, P.O. Cuttack 753003, City & District-Cuttack

.....

Applicant

Advocate for the applicant

-M/s R.B.Mohapatra,  
B.S.Dasparida,  
J.Sengupta, N.R.Routray.

Vrs.

1. Union of India, represented through the General Manager, East Coast Railway, Rail Bhawan, BDA Rental Colony, P.O.Railway Project Complex, Chandrasekharapur, Bhubaneswar 750 001, Dist.Khurda.
  2. Divisional Railway Manager, East Coast Railway, Khurda Division, At-Khurda Road, P.O.Jatani, Dist.Khurda.
  3. Senior Divisional Personnel Officer, East Coast Railway, Khurda Division, At-Khurda Road, P.O.Jatani, Dist.Khurda.
  4. Senior Divisional Mechanical Engineer, East Coast Railway-cum-Chairman, Selection Committee, constituted for selection of the candidates for the
- h

promotion to the post of Sectional Engineer (C&W), under the Khurda Division, At-Khurda Road, P.O. Jatni, Dist. Khurda.

5. Divisional Mechanical Engineer, East Coast Railway, At Khurda Road, P.O. Jatani, Dist. Khurda.
6. M.V. Deo, J.E.-I, Khurda Road Railway Station.
7. Biswanath Sahu, J.E.-I, Khurda Road Railway Station.
8. S.K. Bag, J.E.-I, Puri Railway Station.
9. C.K. Dutta, J.E.-I, Cuttack Railway Station.
10. S.K. Banerjee, J.E.-I, Khurda Road Railway Station (Sl. Nos. 6 to 10, C/ Office of the Divisional Railway Manager (Personnel), East Coast Railway, Khurda Road, P.O. Jatani, Dist. Khurda)

..... Respondents

Advocate for the Respondents - Mr. C.R. Mishra,  
Panel Counsel (Railway)

.....

12

3

## **ORDER**

### **SHRI B.N.SOM, VICE-CHAIRMAN**

The applicant Shri Pabitra Kumar Das has filed this Original Application challenging the process of selection for promotion to the post of Section Engineer (C&W) in the scale of Rs.6500-10,500/- against the existing vacancies of six posts meant for unreserved category.

2. The grievance of the applicant is that although he is one of the eligible candidates for the above post and was called for written test, he was not called for viva voce. As six vacancies were available, the Respondent-Railway had called 18 candidates for the written test to be held on 27.7.2003. But only five candidates out of these 18 were called to appear at the viva voce test. In doing so, the Selection Committee violated the principle of zone of consideration for viva voce test in that it did not call candidates for the viva voce at the ratio of 1:2, i.e., instead of calling five candidates, they should have called 12 candidates for the viva voce test which was held on 14.8.2003. This has created an apprehension in the mind of the applicant that the Selection Committee had acted with mala fide intention and had deprived the applicant from appearing at the



13

4

viva voce test. He has, therefore, prayed that a direction may be issued to the Respondent-Railway to produce the relevant records before the Tribunal for adjudication of the matter.

3. The Respondent-Railway, by filing a counter, has contested the Original Application. Admitting that 18 eligible staff in the category of J.E. Grade I were invited to appear at the written test on 27.7.2003, they have submitted that on the basis of marks obtained by the candidates in that test, five candidates, whose names find place in Annexure A/3 to the O.A., were called for viva voce test which was held on 14.8.2003. They have also submitted that only those candidates who had secured 60% marks or more in written test, were only called for the viva voce test, and that this standard has been laid down in the Estt. Srl.No.266/99 (No.P/R/14/314/3(Policy)/Pt.IV, dated 28.10.99) circulated to all concerned. They have also pointed out that whereas in the said guidelines issued under the Estt. Srl., referred to above, at paragraph 4.2 it has been stated that eligible staff up to three times the number to be empanelled should be called for the selection (Paragraph 215 (e) of IREM). For the purpose of calling candidates for viva voce, it has been laid down at paragraph 10.2.1 that only those officials, who obtained ~~ed~~ 60%

2

of the total marks prescribed for written test and for seniority will be called for the viva voce. In this case, the applicant having not secured 60% marks in the written test, he was not called for viva voce. They have also submitted that in view of the facts stated above, the O.A. is liable to be dismissed.

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

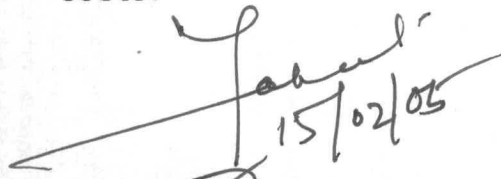
5. We had also called for the relevant file dealing with selection of Section Engineer (Carriage & Wagon) in Mechanical Department for our perusal. On perusal of the selection proceedings, we find that the applicant along with 17 others, who appeared in the written test, were awarded marks by the Selection Board. According to the marks tabulated for this purpose, it is found that only 5 out of 18 candidates secured 60% or more marks out of the total marks for written test and the others including the applicant obtained less than the qualifying marks. The applicant had secured only 40% marks. We have also perused the Estt. Srl.No.266/99 and we do not find any provision therein that candidates two times the number of vacancies should be called for viva voce. We agree with the submission made by the Respondent-Railway that no such

15

6

stipulation exists in I.R.E.M. However, the moot point is that only those candidates who come out successful in the written test are alone called for viva voce test, and in this case the cut-off marks prescribed for clearing the written test having been put as 60% of the total marks and the applicant having obtained 40% marks was clearly not eligible to be called for viva voce.

6. The above being our finding in this case, we see no merit in this Original Application which is accordingly dismissed. No costs.

  
**(M.R. MOHANTY)**  
**JUDICIAL MEMBER**

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

AN/PS