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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH;CUTTACK.**

ORIGINAL APPLICATION NO.462 OF 2003.
Cuttack , this the 2nd day of March 2005

Artaballav Naik.

.....

Applicant.

-VERSUS-

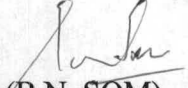
Union of India and Others.

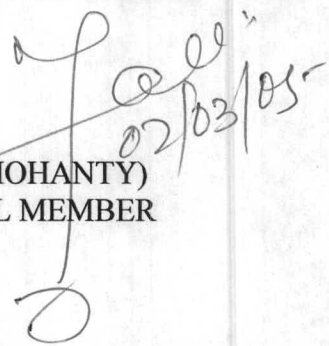
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Respondents.

FOR INSTRUCTIONS.

1. Whether it be referred to the reporters; or not ? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? Yes.


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
JUDICIAL MEMBER

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BECH: CUTTACK

Original Application NO. 462 of 2003
Cuttack, this the 2nd day of March, 2005

C O R A M :-

**THE HONOURABLE MR. B. N. SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. M. R. MOHANY, JUDICIAL MEMBER**

Artaballav Naik, aged about 34 years,
Son of Sri Sarat Chandra Naik,
Resident of Village/Post: Khurda
Via: Sindhekela,
Dist; Bolangir, Pin-767770,
At present working as Primary School Teacher,
Ordnance Factory School, Qr.No.33451/5th Phase, O.F.,
Badmal Estate, AT/PO/Dist-Bolangir.

..... APPLICANT

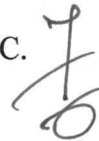
By legal practitioner – M/s. DR. D. B. Mishra, B. Chalan, P. K. Das,
Advocates.

Versus

1. Union of India, represented through its Secretary, Ministry of Defence, Govt. m. Of India, New Delhi.
2. Chairman & Managing Director, Ordnance Factory, Badmal, 6 Esplanade East Calcutta-69.
3. General Manager, Ordnance Factory, Badmal, Bolangir, (Orissa).
4. Arjun Charan Panda, Roll.No.4, Recruitment of TGT (Oriya)
Based on written test and interview/practical test held on dt.
28.07.2003, C/o. General Manager, At/Po: Ordnance
Factory, Badmal, Dist. Bolangir.

..... RESPONDENTS

By legal practitioner- Mr. U. B. Mohapatra, SSC.



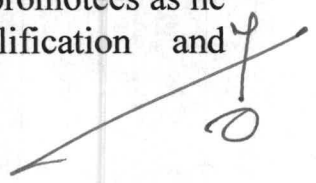
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O R D E R

MR. MANORANJAN MOHANTY, JUDICIAL MEMBER:

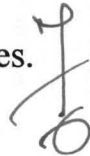
Being aggrieved by his non-selection to the post of Trained Graduate Teacher (in short 'TGT') in Oriya (in the selection process that was undertaken in pursuance of the Advertisement issued under Annexure-7 dated 16-22.02.2002 to the O.A. under Annexure-7(inter-alia challenging the selection and appointment of Respondent No.4 Shri Arjun Charan Panda) the Applicant Shri Artaballav Naik, has approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 wherein he has sought the the following reliefs:-

- “(1) To admit this Original Application;
And
- (2) Issue notice to the Respondents as to why the selection/appointment of Respondent No.4 at Annexure-9 be not rescinded/cancelled as it de hors the provision of Recruitment Rules (Annexure-11) and Respondent No.4 should not be appointed in the category of the post meant exclusively for promotees.
And
- (3) The Respondents be directed to consider the claim of the Applicant as to whether he is entitled to get promotion as per rule (Annexure-11) in TGT Oriya post in the category earmarked for promotees as he possess all the required qualification and experiences;



- (4) Pass such other orders as this Hon'ble Tribunal deem fit and proper in the interest of justice, equity and fair play."

2. The salient feature of the case, are that the Applicant was appointed as a regular Primary Teacher from 22-7.1997 in the Ordnance Factory School at Badmal in the District of Bolangir. In pursuance of the advertisement dated 16/22-02—2002 published in the Employment News, he applied for being considered for the post of Trained Graduate Teacher(Oriya) and accordingly, he was asked to appear the written test that was taken on 28.07.2003. The results of the test for the said post was published on 31.-07.2003 wherein the name of the Respondent No.4 did appear as a direct recruit. It is in this back ground, the Applicant (vide his representation dated 01-08-2003, under Annexure-14) agitated the matter of his non selection before (the General Manager of the Ordnance Factory at Badmal in the District of Bolangir) the Respondent No.3, which having not been responded, the Applicant has moved this Tribunal for redressal of his grievances.

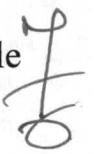


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3. It is his the case of the Applicant that the post in question, ought not to have been filled up by direct recruitment and that the age limit having been prescribed, in the recruitment rules at 35, the Advertisement (as issued by the Respondent No.3) ought not ^{to have} fixed the age limit at 37 years and that the Respondent No.4 having no adequate experience, as per the advertisement/rules, the selection and appointment of Respondent No.4 in the post in question is vitiated and tainted with malice.

4. Respondents Department have filed a counter inter alia stating therein that the allegations (made by the Applicant) are baseless and after-thought inasmuch as the post in question is not meant for promotional quota and as per Recruitment Rules 50% of vacancies in the grade in question are to be filled up by way of promotion and another 50% by way of direct recruitment; the enhanced age of 37 years requiring the candidates to apply directly, does have the approval of administrative decision dated 21.12.1998 enhancing the upper age limit up to two years. While admitting the contention of the Applicant that Respondent No.4 did not have the required experience, it is the specific stand of the Respondent Department that the Applicant having not come out successful in the written examination, he does not have any indefeasible



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right to claim appointment and/or to challenge any action of the Department in appointing a candidate who qualified in the examination.

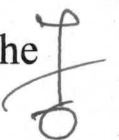
5. We have heard learned counsel for both sides and perused the materials placed on record. During the hearing, counsel appearing for the parties have reiterated their submissions in support of their respective stand. We have also taken note of the rejoinder and written note of submission filed by the Applicant.

6. In order to set the matter at rest, at the outset it is prudent on the part of the Tribunal to adjudicate the locus standi of the Applicant in raising the grievance as he has raised in this Original Application. Admittedly, the Applicant has not been successful in the written examination. When he has not been successful in the examination, he is estopped to challenge the validity of the selection and/or any other action taken by the Respondents with regard to appointment to the post in question. This view of ours gains support from the decision of the Hon'ble Supreme court in the case of *UNIVERSITY OF COCHIN* -vs.-

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N.S.KANJOONJAMMA AND OTHERS (1997 Supreme Court Cases (L&S) 976) .This being the position of law, the grievances raised by the Applicant do not stand to reason. As regards his claim that this post ought to have been filled up by way of promotion, we are of the considered view that the Applicant with the tranquility of his mind having accepted the notification issued under Annexure-7 and having applied, and appeared in the said examination for the post of TGT(Oriya) as stipulated therein , he is also estopped to challenge/raise a grievance with regard to validity of Annexure-7; more particularly when he did not qualify in the written test for being selected to the post in question. Even for the sake of argument the plea of the Applicant that the post should have been filled up by way of promotion, it is completely altogether a separate cause of action which the Applicant, can not raise now in the absence of aggrieved party , his position in the seniority list being at Sl. No. 35. It is a settled position of law that the Administrative Tribunals constituted under the Administrative Tribunals Act, cannot entertain a public interest litigation at the



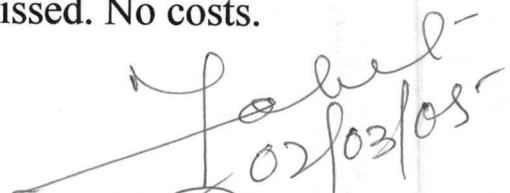
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instance of a total stranger other than the person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal (*DR. DURYODHAN SAHU -vs.- JITENDRA KUMAR MISHRA, JT 1998(5)SC 645: 1999(1)SLJ 205 (SC)*). Further more the Advertisement upon which the Applicant raised his voice has not been questioned before this Tribunal in this O.A.

7. For the reasons discussed above, this Original Application sans merit and stands dismissed. No costs.


(B.N.SOM)
Vice- Chairman


(M.R. MOHANTY)
judicial Membe