

10

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH:CUTTACK

ORIGINAL APPLICATION NO.1252 OF 2003  
CUTTACK THIS THE 30<sup>th</sup> DAY OF August 2005

*Abdul Khalid Khan & ors.* .... *Applicant(s)*

-VERSUS-

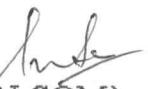
Union of India & Ors. .... *Respondents*

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?

✓

2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

  
(B.N. SOM)  
VICE-CHAIRMAN

  
20/8/08  
(M.R. MOHANTY)  
MEMBER(JUDICIAL)

11

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH:CUTTACK

ORIGINAL APPLICATION NO.1252 OF 2003  
CUTTACK THIS THE 30<sup>th</sup> DAY OF Aug 2005

CORAM:

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

...

1. Abdul Khalid Khan, aged about 47 years, Son of Abdul Latif Khan, At:Retang Colony, PO/PS:Jatni, District:Khurda
2. Nilachal Panda, aged about 51 years, Son of late G.H.PANDA, At: Balichak Sahi, PO/PS: Jatni, District: Khurda
3. Narendra Kumar Sahoo, aged about 44 years, Son of late Balaram Sahoo, At-LB 100, Badagada Brit Colony, Bhubaneswar, District: Khurda

All are at present working as T.T.E. in the office of the Senior C.T.I. East Coast Railway, Khurda Road, PO: Jatni, District: Khurda-752050  
Applicants  
...

By the Advocates

M/s.B.S.Tripathy  
M.R.Rath  
J.Pati

-VERSUS-

1. Union of India represented through the General Manager, East Coast Railway, At/PO-Chandrasekharpur, Bhubanesswar, District:Khurda
2. The Chief Commercial Manager, East Coast Railway, At/PO-Bhubaneswar, District-Khurda
3. The Divisional Railway Manager, East Coast Railway, Khurda Road, Bhubaneswar, District-Khurda
4. The Senior Divisional Commercial Manager, East Coast Railway, Khurda Road,Bhubaneswar, District-Khurda
5. The Senior Divisional Personnel Officer, East Coast Railway, Khurda Road, Bhubaneswar, Dist: Khurda

J

... Respondents

By the Advocates

Mr.B.K.Bal

ORDER

**MR.M.R.MOHANTY, MEMBER(JUDICIAL):** Applicants (Abdul Khalid Khan, Nilachala Panda and Narendra Kumar Sahoo) are working as Train Ticket Examiners (in short TTE) in Khurda Road Division of East Coast Railway Zone. They have approached this Tribunal under Section 19 of the Administrative Tribunal Act, 1985, seeking the following relief:

“...to pass appropriate orders quashing the letter dated 17.04.2003 in Annexure-A/3;

...to pass appropriate orders directing the respondents to promote the applicants to the post of Head TC/TTE ‘A’ from the date when their juniors so promoted; and

...to pass such further order/orders as may be deemed just and proper in the facts and circumstances of the case and allow this Original Application with cost”.

2. It appears that the Applicants had moved the Tribunal in an earlier O.A.No.653 of 1997 questioning the validity of selection (for promotion to the post of Hd.TC/TTE A in the scale of Rs.1400-2300 RPS) held on 3.1.1997, 6.1.1997, 9.1.1997 and (supplementary) on 3.2.1997 and that, in consideration of the facts adduced in that O.A., this Tribunal, on 22.11.2000, directed the Respondent-Railways to dispose of the representations of the applicants and that is how, the impugned order dated 17.4.2003 was passed by the Railways.

3. Respondents have filed a detailed counter opposing the prayer of the Applicants, who have not filed any rejoinder.

4. We have heard the learned counsel for the parties and perused the materials placed on records.

5. It is the bald case of the Applicants that selection for the post of H.TC/TEE- A being not in accordance with the rules, the same is liable to be quashed. Applicants have, however, not made any averment with regard to the mode of selection for the post in question and as to which part of the relevant recruitment rules( governing the selection in question) has been violated by the Respondents. It is not the case of the Applicants that they had performed better than the candidates( selected under Annexure-A/2 dated 6.5.1997) and that they could have been selected for promotion, but for the irregular process of selection. That apart, while assailing the order of disposal of representation (made by the Respondents under Annexure-A/3 dated 17.4.2003), the applicants have not produced a scrap of material to show that the in fact there was irregularity in the process of selection.

6. We have gone through the counter as well as Annexure-A/3 dated 17.4.2003. No doubt, due to some pretext or the other, the selection for to the post in question was cancelled time and again. Since the very cancellation of the selection is not the matter of dispute here, we refrain ourselves to take any view on this.

7. The learned counsel for the Applicants have prayed for a direction to be issued to the Respondents to accord promotion in their favor with effect from the date their juniors were promoted. The Applicants have not enclosed copies of the seniority list to enable us to come to the conclusion that in fact the seniority of the Applicants has

been given a go bye and that thereby their juniors have been allowed to supersede them. As we read and understand the post of Hd.TC/TTE A is purely a post based on selection through interview/viva voce. It is not the case of the Applicants that the selection to the said post is based on seniority-cum-merit. It is also not the case of the Applicants that certain discriminatory treatment and/or favoritism and nepotisms were shown by the Respondents in the viva voce to the near and dear candidates. Law is well settled that having participated in the process of selection, one cannot call in question the very basis of the said selection as bad in law and/or vitiated.

8. Before coming to the conclusion, we would like to note that O.A.No.653/97 was disposed of by this Tribunal on 22.11.2000 requiring the Respondents to dispose of the representations filed by the Applicants. Since the copy of the judgment rendered in the said O.A.NO.653/97 has not been made available, we are not in a position to know as to what was the time stipulation for disposing of those representations. In any case, as per the statutory instructions, where there is no time limit fixed by the Tribunal, the orders should be complied with within a period of six months. If the period of six months is taken into account with effect from 21.11.2000, this period of six months was over by 21.6.2001 and the representations, if at all were not disposed within the said period of six months, the matter was left open to the Applicants to approach the Tribunal either on expiry of six months period, i.e., 21.6.2001 or within one year from 21.6.2001, i.e., by 20.6.2002. As it appears, the Applicants, in pursuance of the disposal of the representations in the year 2003, have approached the Tribunal, challenging the validity of the said order. Disposal of representation by the respondents beyond the stipulated period and/or the period as prescribed under the relevant service

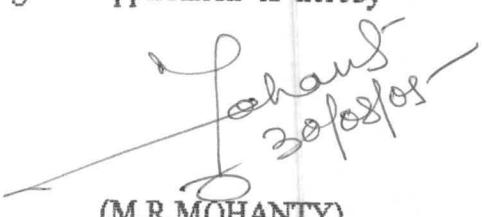
J

15  
- 15 -

Rules, or for that matter the C.A.T. Act and Rules can by no stretch of imagination save limitation. That apart, the applicants have not filed any petition seeking condonation of delay.

9. For the reasons discussed above, this Original Application is hereby dismissed. No costs.

  
(B.N.SOM)  
VICE-CHAIRMAN

  
(M.R.MOHANTY)  
MEMBER(JUDICIAL)